

I WAS NOT HAPPY WITH THAT SO I TURNED TO OUR GOVERNOR I KNEW THAT HE KNEW OF OYSTER HARBOUR BECAUSE HE HAD BEEN DOWN HERE HELPING WITH OUR BOAT DOCK ON MARCH 15 2007 AND MARCH 24 2007 I FAXED GOVERNOR EASLEY LETTERS ASKING FOR HIS HELP ALSO SENT HIM ONE BY OVERNIGHT EXPRESS THAT SAME DAY WHEN I DID NOT HEAR FROM G EASLEY I SENT ANOTHER LETTER TO GOVERNOR MIKE EASLEY WHEN I DID NOT HEAR FROM HIM FOR WEEKS I DECIDED TO PLANT SOME TREES ON MY LINE TO GET MAYBE SOME PRIVACY I HAD NOT BEEN GIVEN ANYTHING FROM WATERFRONT PROPERTIES AS WHAT TO DO OR NOT TO DO

ON APRIL 26, 2007 THE HOA CAME DOWN ON ME FOR PLANTING THE TREES WHICH I DID NOT KNOW NOT TO DO BUT STILL I HAD NOT HEARD NOTHING BACK FROM THE BOARD I TRIED TO DEAL WITH THEM TO REMOVE SO MAY BACK FROM THE ROAD BUT IT WAS ALL OR NOTHING AFTER SEVERAL MONTHS OF HARRASSMENTS AND THREATING LETTERS I DECIDED TO RETAIN AN ATTORNEY AND MEET WITH THEM TO GET THIS OVER WITH IT TOOK SEVERAL WEEKS FOR THE BOARD TO GIVE US A MEETING TIME

MY ATTORNEY AND I MET WITH THE BOARD IN SEPTEMBER 2008 MY ATTORNEY HAD TO WRITE THEM TWO LETTERS BEFORE THE BOARD WOULD GIVE US A MEETING TIME WE DISCUSSED OUR PROBLEM WITH TWO OTHER MEMBERS THAT TOLD THEIR STORY AS THEY HAD BEEN HELPING ME MY ATTORNEY WAS WELL INFORMED OF MY HEARING WITH THE ARCHTECTIUAL BOARD MEETING AND STILL I HAD NOT HEARD FROM THAT MEETING AS I WAS PROMISED TO HEAR AT THE TIME OF THIS MEETING

MY ATTORNEY ASKED MANY QUESTION ON THE SITUATION AND READ THE LAW OF THE 45 DAYS LIMIT IF NOT HEARD BACK FROM THE SOURCE THEN IT IS CONSIDER VOID AND NULL WE THOUGH THAT WOULD BE IT BUT YET THEY WOULD NOT GIVE UP I KNEW THAT I WAS IN THE RIGHT AND STOPPED WORRING ABOUT IT BUT STIL THEY KEEP ON HARRASSING ME WITH LETTERS AND THREATS ON JUNE 25, 2008 I GOT A LETTER FROM MYSTRE BUTTLER SAYING IF I DID NOT CUT DOWN MY TREES THEY WERE GOING TO START FINEING ME \$100,00 PER DAY UNTIL I DID ON JULY 15, 2008 I GOT A LETTER FROM MUSTRE BUTTLER SAYING THAT WOULD PUT A LIEN ON MY HOUSE IF I DID NOT CUT DOWN MY TREES BY A CERTAIN DATE ON JULY 17, 2008 THEY PUT A LIEN ON MY HOUSE AND I HAD TO TAKE IT OFF THE MARKET AS I NEEDED TO SELL THIS HOUSE BECAUSE HOA HAD COST ME SO MUCH MONEY I NEEDED TO SELL MY HOME TO RECONCILE THE BANKS WITH PAYMENTS I HAD A PERSON FROM OUT OF STATE TO FLY HERE JUST TO LOOK AT MY HOME THINKING OF BUYING BUT WHEN HE ARRIVED HE SAW THE NEXT DOOR NEIGHBORS HOUSE AND TURN AROUND AND SAID THAT HE DIDN'T WANT IT BECAUSE

OF THIS HOUSE NEXT DOOR. THIS IS WHAT I HEAR FROM EVER LOOKER
I HAVE HAD TO RETAIN TWO ATTORNEYS TO DEFEND MY SELF FROM THE
BUILDER WATERFRONT PROPERITIES AND OYSTER HARBOUR IN THE
AMOUNT OF \$10,000 DOLLARS JUST FOR THE ATTORIES FINALLY I HAD
TO LET THEM GO WHICH I DID NOT NEED THIS COST AS I AM ON A
FIXED INCOME SINCE MY HUSBAND GOT SICK AND HAD TO BE PUT IN A
HOME

EARLY SPRING 2010 I NOTICED ONE OF MY LELAND CYPSES TREES
TURNING BROWN AS IF IT WAS DYING I DID EVERYTHING I COULD TO
SAVE IT BUT IT STILLED KEEP DYING ANOTHER ONE STARED DYING
THE SAME WAY EVERYTIME I WOULD GO OUT IN THE YARD DURING
ALL OF THIS I WOULD GET DEATHLY SICK MY EYES WOULD GET BLURED
AND MY HEAD WOULD HURT SO BAD THAT I COULDN'T HARDLY MAKE IT
BACK INTO MY HOUSE...HAVING TO LIE DOWN UNTIL MY HEAD STOPPED
HURTING AND MY EYES LOST THE BLURNESS I KNOW IT WAS VERY
POISENING TO ME AND MY DOGS ONE OF MY DOGS HAD A CANCER TO
BE TAKEN OFF HIS LEG DURING THIS TIME AND I THINK IT WAS BECAUSE
OF THE POISENING THAT WAS SPRAYED ON MY TREES AND YARD

I WENT TO THE COUNTY AND THEY COULDN'T HELP ME I HIRED
COMPANIES TO HELP ME AND THEY DIDN'T KNOW WHAT WAS CAUSING
THIS I WAS ON A HUNT AGAIN FOR SOME ONE THAT COULD HELP ME
I CALLED THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND
CONMUMER SERVICES OF PESTICIDES DIVISTION THEY CAME OUT AND
TESTED THE TREES AND GROUNG AND DECIDED THAT MY TREES HAD
BEEN SPRAYED WITH ROUND UP...IT KILLED EVERYTHING IT TOUCHED
TREES AND GRASS ON BOTH SIDES OF THE TREES. THE FIRST TIME I
WOULDN'T LET HIM ACCUSE MY NEIGHBOR DAN BASE OF DOING THIS
BUT SINCE THEY KEEP DYING I FIGURE IT WAS THE TIME TO DO
SOMETHING AS IT WAS OUT IN THE COMMUNITY THAT DAN BASE WAS
BRAGING THAT HE HAD DONE IT I LET MR MERRITT GO OVER TO MR
BASE HOUSE AND ASK HIM IF HE HAD SPRAYED MY TREES AND HE SAID
NO AND THAT HE HAD NOT HIRED SOME ONE TO DO IT EITHER BUT
NONE THE LESS I HAVE NOT HAD ANOTHER TREE TO DIE SINCE I LOST
21 TREES BY THIS COWARD IN THE MIDDLE OF THE NIGHT DOING VICIOUS
THINGS ALSO MY CAMERAS HAD BEEN KOCKED OUT WITH OUT MY
KNOWING

WHEN MY TREES STARTED TO DIE I SENT MR A LETTER ASKING FOR
HILP IN FINDING OUT WHAT WAS DOING THIS TO MY TREES I FAX IT
THE FIRST TIME WITH NO RESPONSE I CERTIFIED THE SAME LETTER TO
HIM STILL NO RESPONCE TWO DAYS LATER HE NEVEFR DID ANSWER MY
LETTER ASKING FOR HIS HELP

SIDE OF MY HOUSE HE DID THIS BUT WHEN DOING SO HE MOVED OUR HOUSE BACK ON THE LOT CAUSING US TO HAVE TO GET A NEW ECOFLO SYSTEM THE COST WAS \$14,000 DOLLARS AND STUCK UP ABOVE THE GROUND 24 INCHES IN MY FRONT YARD THIS PERMIT WAS NOT GIVEN TO MR BANKSHIP UNTIL MAY OF 2002 BY THE COUNTY

DOUG HAS HAD CONJESTIVE HEART FAILURE FOR MANY YEARS AND I TRIED TO PROTECT HIM AS MUCH AS POSSIBE IN MAKING DECISION OF THIS HOME. WITHIN A FEW MONTHS AFTER MOVING IN DOUG EXPRESSED TO ME THAT HE WAS NOT HAPPY DOWN HERE. WITH ALL OF OUR TROUBLES WE HAD WITH WATERFRONT PROPERITIES AND OUR BUILDER I STARTED SEEING A DIFFERENCE WITH DOUG HE WAS NOT HAPPY AND WANTED TO MOVE BACK TO THE MOUNTAINS TO OUR HOME UP THERE. I TOOK HIM BACK TO SEE IF THAT WOULD HELP.BUT IT DIDN'T, HE REFUSED TO COME BACK DOWN HERE I COULD NOT UNDERSTAND AS HE WAS THE ONE THAT CHOOSE THIS PLACE TO BUILD. WITH IN A FEW WEEKS I SAW SOMETHING WAS WRONG WITH DOUG. IN TAKING HIM TOO HIS DOCTOR WE FOUND THAT HE WAS IN THE FIRST STAGE OF ALZHIEMERS WITH HIS CONJESTIVE HEART FAILURE. THIS REALLY SET US BACK IN OUR LIVES. IN THE NEXT FEW MONTHS I HAD ADMIT HIM IN A PRIVATE HOME WITH FULL BLOWN ALZHEIMERS. WITH HAVING TO LEAVE DOUG BACK IN THE MOUNTAINS I HAD NO OTHER CHOICE BUT TO COME BACK DOWM HER TO PROTECT OUR INVESTMENT OF OUR HOME AND THE MAJOR PROBLEMS THAT WE HAD WITH ALL THE PROBLEMS THAT WE HAD WITH THE WATERFRONT PROPERITIES AND THE BUILDER I FULLY BELIEVE THIS IS WHAT PUT DOUG INTO ALZHEIMERS WE CAME DOWN HERE TO REST NOT TO FIGHT FOR OUR LIVES.

I WENT TO THE COUNTY TRYING TO GET HELP AS TO THE SET BACKS OF THIS LOT BECAUSE MINE WAS 12 FT OR MORE. WHEN DOING SO I WENT TO THE COUNTY TO SEE IF THEY COULD HELP ME. THE LADY AND I COULD NOT FIND ANYTHING ON WATERFRONT LISTED WITH THE COUNTY. WE SEARCH IN EVERY BOOK FOR SOMETHING ON WATERFRONT PROPERTY AND COULDN'T FIND ANYTHING . I STILL WAS NOT SATISFIED AS I COULD SEE THIS HOUSE WAS GOING TO BE SO CLOSE TO MINE.

BEING ALONE AND KNOWIING SOMETHING WAS VERY WRONG I DECIDED TO ASK MY GOVERNOR MIKE EASLEY FOR HELP AS I KNEW GOVENOR EASLEY HAD BEEN DOWN HERE HELPING WITH OUR BOAT DOCK HERE IN WATERFRONT PROPERTY. I WROTE HIM A LETTER ASKING FOR HIS HELP WITH MY PROBLEM FAXED IT TO HIM AND SENT IT BY FEDERAL EXPRESS THAT SAME DAY WEEKS WENT BY AND NO ANSWER FROM GOVERNOR EASLEY BUT YET THE BILDERS WAS STILL WORKING ON THE LOT . I SENT ANOTHER LETTER BY FEDERAL EXPRESS...STILL WEEKS AND NOTHING

January 23, 2012

House Select Committee on Homeowners Associations
North Carolina General Assembly
Raleigh, North Carolina

Dear Chairperson and Committee Members:

Thank you for the opportunity to present the committee with my thoughts, concerns and hopes regarding residing in a community with a Homeowners Association.

I am a resident of New Bern, living in the community of Fairfield Harbour, home to nearly 3,000 people. We have an active elected board, whose members were each voted into office by a greater than 2 to 1 margin.

Fairfield Harbour is a pre-1999 community and, thus, is not operating under The North Carolina Planned Community Act (Chapter 47F). Recent court decisions have stripped our board's ability to manage and provide services, which in the past they could (and should) provide, lacking a local government. These court decisions, most notably what has become known as the Wainwright Decision, severely limit any actions the board may take, even if overwhelmingly favored by the community's residents, effectively overriding our Declaration of Restrictions. This decision not only limits what may take place in Fairfield Harbour but, by extension, it will affect all pre-1999 communities throughout the state.

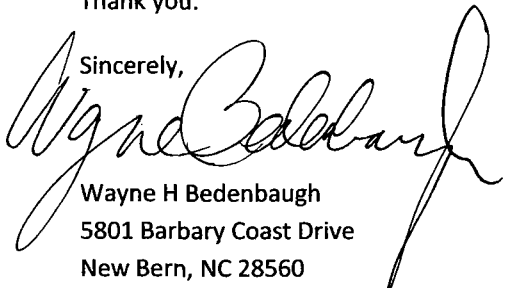
What I am asking the legislature to consider is:

- To not create complex laws obliging these voluntary HOA boards to seek a legal opinion every time a decision needs to be made
- Let clear, sensible, fair and well written laws determine how such boards may operate, not court cases or suits brought by a disgruntled minority of residents
- Allow foreclosures as a last resort in the collection of POA dues, thereby ensuring that all owners share in the burden of running the community
- Review what is required for a community to become compliant with the aforementioned North Carolina Planned Community Act. The current requirement calling for a two-thirds majority vote is unrealistic given that many owners are corporations who never vote on issues; a non-vote is currently a no vote.
- Allow elected HOA boards the freedom to perform those duties and services for which they were elected. If they do not so perform, let their constituents vote them out, just like legitimate government.

Fairfield Harbour is not a neighborhood looking for just a free handout. We are larger than 400 of the 600 population centers in North Carolina identified by the U.S. Census and we are growing, as are all such communities in the state. Our population has increased over 40% in the last ten years. With your help and guidance we can have an effective governing organization meeting the needs of its residents now and in the future.

Thank you.

Sincerely,



Wayne H Bedenbaugh
5801 Barbary Coast Drive
New Bern, NC 28560

Testimony from Antonica Cambier
1827 Falls Church Rd.
Raleigh, NC 27609
Legislative Hearing on HOA matters

My name is Antonica Cambier. I am a homeowner at 1827 Falls Church Rd., part of the Whitehall planned development in Raleigh, NC. I have served on my HOA Board for 3 ½ years, and as president for 2 ½ years. Whitehall was one of the very first planned communities in the Raleigh area, and will be 35 years old this year.

I ask you to look upon our HOA as a business that provides a product or service. In this case, the services provided lift part of the homeowner's burden:

- periodic maintenance (painting and residing) of the exterior of the home
- roof repair and replacement
- gutter cleaning and repair
- maintenance of walkways, parking lots, streets, and bridges.
- a landscaping crew takes care of mowing, planting, reseeding, and leaf clearance of your yard
- removal of dead trees and shrubs, as well as pruning.
- a work crew that will promptly address any repairs needed to the exterior of the home.

An added amenity is a secure, inspected pool, with twice-daily maintenance during a five-month season.

Please stop for a moment and consider what percentage of your income would you need to budget to cover the afore-mentioned expenses. If you are a prudent homeowner, you set aside funds to take care of maintenance expenses.

The volunteer members of an HOA Board do the job for you. They assess the past year's expenses, make up a budget for the coming year, police the funds set aside from monthly assessments, review all special requests, and mediate problems with the neighbors! They hire the workmen, the landscaper, the pool crew, the property manager, and answer the phone when there is an emergency.

If you own a business and your creditors fail to pay you, you eventually go bankrupt. If the residents fail to pay their dues, for whatever reason, the only recourse the HOA has is to put a lien on their property, and hope to recover some of the money owed. That money has already been committed to various set expenses, and it is not feasible to stop maintaining a property for nonpayment of dues without having it reflect on the values of all the properties. For each dollar of dues lost, a repair must be postponed, a house is not repainted on schedule . . . In other words, the whole community suffers. Recouping delinquent funds via a lien is the only avenue open to an HOA. If that were taken away, residents could arbitrarily decide to stop paying dues/assessments – a decision that would have ramifications for all the other residents, with a breakdown (bankruptcy) of the community.

My purpose in speaking today is to illustrate how damaging it would be to my community if the legislature restricts a community's option to foreclose on properties that have not paid dues.

I live in Fairfield Harbour in New Bern. We have 2824 individual properties, which includes a mix of single family residences, undeveloped lots, condos townhomes and timeshares. We encompass over 2000 acres, have 26 miles of paved roads, stormwater systems that criss-cross the community, 4 significant buildings, tennis courts, two guardhouses, a boat ramp and a fishing pier. In addition we own and maintain a small fleet of maintenance and security vehicles.

At the same time the Association is responsible for maintaining common areas, purchasing various insurances, replacement of assets as they depreciate or deteriorate and we also must self-finance for flood damage.

Please note that we are not an incorporated town. Therefore we have only one primary source of revenue: dues. There is no taxing authority. The Association receives no property taxes, no sales taxes, no income taxes.

Dues for 2011 were \$536 for the year...the year! not for a month. Even at that amount, we have seen non-payment of dues rise from a long-term steady rate of 3%, to nearly 8% in 2011. That is the equivalent of having each dollar in billing come back at 92 cents. How do we make up the difference? The property owners who pay their dues have to make it up because, again, that is our only source of income. To illustrate this, our 2012 budget shows annual dues of \$699, therefore at the 8% short-fall of returns, non-payment is expected to equal over \$150,000. This will amount to an extra \$57 for each of the 2600 paying properties.

If people stop paying, the obligations don't go away. If the Association can't enforce the obligation to pay dues on every property owner who voluntarily purchases property in the community, it will start a downward spiral. In addition, once an Association's delinquencies are too high, the ability for purchasers to qualify for government-backed mortgages is severely limited. And these days, there are very few sources of mortgage money that are not government backed.

With no mortgage money, there will be no resales, so owners that want to sell will be unable to do so.

The fact that Associations have only one source of revenue makes us particularly vulnerable if property owners stop paying. There is nowhere else to turn except to the other property owners, and there is a limit to how much those people are willing to tolerate, or should be expected to tolerate, or should be required by law to tolerate. The people who pay their obligations signed the same contract as those who do not, and have every right to expect that contract to be enforced.

The Association must have the authority to take legal action against property owners who do not pay. Associations have real world financial obligations, and must have real world remedies. If legislative action turns those remedies into hollow threats the consequence will be failure and chaos.

Katherine Schilling
907 Caroline Court
New Bern, NC 28560

Hello, my name is Charles Rice I have been residing for the last 4 yrs. in BSYC HOA located in Carteret County. Under the present State laws that are in existence regarding HOA's and Management Companies an environment has been created to allow HOA BOD's to not follow implemented State Laws 47f and 55a. For example: requests for HOA information go unanswered, or the BOD is reluctant to reply. Voting ballots and Proxies with forge signatures so that the same members can maintain control of the HOA. HOA contracts are given to BOD friends and not based on the best interest of the HOA membership, Membership meetings by proxies only; I didn't know proxies have a voice... Selective and preferential enforcement of Covenants and Restrictions among members, with BOD Buddy's on the receiving end of favorable decisions. Lawsuits filed against one member but not another for the same violations. EX: approval of outbuilding for one member, a lawsuit filed against another for the same building.

Charles Rice
#5 handout

Under the current laws BOD of HOA are allowed to conduct and impose their agendas without the best interest or input from the membership and at the monetary expense of the membership. Without personnel responsibility and accountability for BOD members, HOA members have no recourse and are treated like sheep. The only option is to sue the BOD which is a very expensive undertaking on the membership.....in essence your suing yourself... Also there is no State agency to file complaints or oversee HOA BOD. Who do you complain to when the BOD refuses to follow 47f and 55a.

Management Companies have the luxury of working without any State licensing or certification requirements. Even to be a road construction flag waver/handler or bank teller requires a certification to be employed. Yet Management Companies are allowed to oversee the everyday business and financial status of HOA's without the benefit of any minimal requirements, training or the threat of revocation, suspension of a business license or certification if they fail to act accordingly, even if they put themselves in a direct conflict of interest situation with the HOA they are employed by. EX: Hiring a Business Associate or friend to perform HOA contracts.

This Committee has the ability to change what seems to be HOA's that are more like dictatorships then a Democratic Orientated Community.....Take the power away from HOA BOD and put it back in the hands of the membership.....At your convenience and at my expense I will meet with members of this Committee and support with writing documentation the complaints that I have stated.....

My contact info
Charles Rice
147 Skipper ct.
Newport, NC 28570
252-764-2099
lnrice@yahoo.com

House Select Committee on Homeowner Associations

Hello. My name is Harry Hawkins. I have a home in an HOA community, but, am not a board member, never have been and doubt that I want to be. Board work involves long hours, no pay, much criticism and scant praise. A primary concern is the protection of my home value. The best way to accomplish this is with a board that enforces the C & R's, **the same ones that everyone signed onto when they purchased property**. However, reasonable enforcement of these restrictions brings out opposition to the board, which is one of the reasons we are here today.

Certainly, HOA's have some advantages for its residents. Why else would one move into an HOA community? However, a few are highly resistant to common rules and resent efforts by a board to enforce the most blatant covenant violation **even when the complaint may have been initiated by a neighbor**. What is a board to do? If they ignore the complaint they are charged with cronyism. If they try to enforce the covenant they are over-stepping. Malicious rumors are dispensed to the press, **but, where is the evidence?** An executive meeting in the clubhouse at 10 in the morning to discuss confidential matters such as delinquent dues becomes a "**secret meeting**." If the object of that meeting is sensitive in nature, such as negotiating a new contract for maintaining the pool area, this becomes a "**secret deal**".

No doubt, from testimony today and prior, you could get the impression that brown-shirted storm troopers patrol these communities looking for minor violations, fines to levy and foreclosures to make. Where there is clear evidence of board abuse you should enact laws to correct that abuse. Certainly, telling a member they can plant azaleas, but, not camellias is over the line. However, asking them to correct a violation by removing a large boat or motorhome from the front yard **is not unreasonable**.

I do not envy your task. The most important advice I could offer the committee would be not to over-legislate. HOA's can take care of themselves. Boards are duly elected. Terms are staggered. Members can vote or run for election. **Most importantly, one does not have to move into an HOA community if they have deep-seated issues with covenants and restrictions**. The committee should also beware those that "doeth protest too much", the **perpetually aggrieved**. Following the committee from city to city to me seems obsessive, not objective. Has the committee heard 100 different complaints or 25 complaints repeated four times? So if you must enact, base it on documented testimony, not partisan rhetoric.

Further limiting board authority could aggravate an important, but, unrecognized problem. Chronic grousing and sniping by a few can make governance inefficient and unpleasant. An unintended consequence would be to make it difficult, if not impossible, to recruit qualified members to run and serve. Why volunteer for abuse?

Thank you for the time,

Harry Hawkins
Oyster Harbour
Supply, N.C.

john d bryan (davemercy@atmc.net) - Fri, 03/02/12 10:12:06 -0500

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From: <marineteach@atmc.net>
To: <davemercy@atmc.net>
Subject: Fwd: Letter
Date: Fri 03/02/12 09:51 AM

--- Begin forwarded message:

From: <marineteach@atmc.net>
 To: <marineteach@atmc.net>
 Subject: Letter
 Date: Wed, 29 Feb 2012 19:24:37 -0800

*Mary McCurdy, Brunswick Co.,
 910-842-6780*

I have been a resident of Oyster Harbour for six years. Our HOA consists of approximately 70 homes and 400 undeveloped lots. During the past four years our HOA has incurred well over 300 K in legal fees, most of which are due to actions the Board has taken against homeowners *all unwarranted.*

One case involved a member that voluntarily originated and ran the first OH community website. This webmaster registered for and paid for the two domain names that were used. When the Board decided to hire a professional company to run the OH website they sued the member for the two domain names claiming a parol, an oral, agreement had been made and those domain names belonged to the OH HOA. The act of hiring a professional company to run the website is understandable. Not treating the former webmaster with proper consideration and appreciation for his years of service is not understandable. The former webmaster was not even given the due process of a hearing. The Board spent over 26K suing the former webmaster. Even though the National Arbitration Forum, which deals with Domain Names Proceedings and Decisions, declared the Board was attempting piracy of the domain names, the former volunteer surrendered the domain names not wanting to continue with the cost and stress of litigation. After being awarded the two domain names the Board did nothing with the sites and they have since been registered by a commercial organization. If the Board thought it was worth 26K to obtain the domain names to protect the name of Oyster Harbour surely they would have followed through and registered the names under our Association.

Another case involved the Board placing a Temporary Restraining Order on the construction of a home. The issue was the color of house trim and completion of the landscaping. The owners would have been very willing to be in compliance with the request of the Architectural Review Committee had they been given an opportunity to do so before issuing a court order. The owners were never even given the due process of a hearing. The cost to the Association was over 26K. The cost to the homeowners was over 20K. The Board declared they had "won" the court case. There was no winning. Everyone lost. The Association paid and these good people suffered a terrible financial loss.

Another action of the Board that caused over 21K in legal fees dealt with a concern that a neighboring multifamily property may have use of our amenities. Originally this property was five single family lots and did have a legal agreement to use our amenities as long as they were abiding by our governing documents. There were numerous reasons that this now multifamily property no

longer had rights to our amenities. Many astute members attempted to point out why this neighboring property no longer had rights to our amenities. The Board's publicized response to these members was if we (the Board) took the suggestions of the members "we would have a lot of different opinions, many of which come from people who lack the facts". In attempt to control amenity use the Board had a lawyer prepare an amendment to the Bylaws limiting the number of people we could have visit our home to six without written permission from the Board". The amendment did not pass nor was it needed as the multifamily property agreed if they ever had any right to our amenities they gave them up in return for the past dues this outside community had paid to our Association. This incident shows the unwillingness of the Board to accept input from its members, incurring unconscionable legal expenses, and an attitude of superiority to attempt to actually control the number of guest one may have in their home.

In another instance a property owner planted a row trees along her property line. The Board questioned her authority to do so within our governing documents and proceeded to fine her daily. The Board placed a lien on her home which accumulated up to 66K. Then they removed the fine. Why? If they felt they were within the law to daily add fines why then remove? The accumulating fines caused an extraordinary stress on the homeowner. The adjoining neighbor presented their concerns about the row of trees at an open forum following a Board meeting. Not only were they given the opportunity to voice their opinions publicly they were given a commitment by the Board to resolve the issue. When the homeowner that planted the trees was to have a hearing the Board did not give the same consideration and treatment as had been done for the adjoining property owner. The Board walked out of the room not even allowing the member to be heard.

Unfortunately in the past four years we have had a re-election and appointment of many of the same five members of the Board. A group of members attempted to recall four of the five Board members based on the above unconscionable legal fees. The proposed Special Meeting for the Recall was taken over by the Board, the entire process changed and the results of the voting process were questionable. The only recourse the group had was to hire a lawyer. And with the past actions of the Board the future prediction was that the Board would have no problem in incurring more legal fees.

These same Board members have not followed our governing documents in the election process by not allowing the voting process of the election of new Board members to be done by Secret Ballot as prescribed in our Bylaws and described in Robert's Rules of Order. In preparation for the voting of new Board members at the Annual Meeting the Board mails Proxies with the Board secretary as the recommended Proxy holder. The proxy is general and gives the proxy holder the right to vote as they wish not as the property owner designates therefore it does not protect the vote of the property owner. And there has not been a "neutral party" involved in the marking of the ballots or even checking on the secretary to make sure the vote is cast as the owner wishes. At the Annual Meeting three years ago the incumbent Board secretary marked the ballots for his own election. The following year the then secretary made it clear publicly who he wanted to win the election. There were improprieties in the process and the winning count was by one vote yet the Board refused a recount. Last year the then secretary nominated a candidate. Again this Board member was the recommended Proxy holder and she marked the ballots without anyone checking to make sure the ballots were cast as the members had designated. Again proper procedures were not followed and the words from the Board were "trust us". The business of an HOA should be based on following all the governing documents. Trustworthy people would want the election process to be done without

any perception of impropriety. The members again had no recourse except to hire a lawyer. With the prediction of a great financial loss to all.

Our current Board president has said at an open meeting "she does not like some of us". Her actions have preceded and given proof to her statement.

Attachment:	Save	View
Name:	Letter for Legislation.pdf	
Type:	application/pdf	

john d bryan (davemercy@atmc.net) - Fri, 03/02/12 10:12:06 -0500

PUBLIC COMMENT ON HOMEOWNERS' ASSOCIATION ISSUES

3-2-12

The decision to live in an HOA community is a voluntary one. When my husband and I retired to NC in 2007, we chose our community fully aware that it was an HOA, and fully willing to comply with its covenants when we built. I'm here to speak as a happy HOA member, like thousands of others across the state.

I appreciate your efforts to gather information on HOA issues, and when you make your recommendations, I hope you will consider a few things:

Please consider the truth factor in the stories you've heard. How can you be sure you have been told the whole story? Was the information biased, or even false? From reading the press reports, I know that untrue things have been said about my own association, so that may have happened to others also.

Please consider the differences in covenants and bylaws from one association to another. A board that seems in error may in fact be following its own obligations. And don't overlook the restrictions placed by NC DENR. A board's failure to enforce their rules means the risk of having their entire association fined. How fair is it that the violation of one member would have to be paid for by all members?

Please consider the effect that not following the rules has on members who do. If I receive a violation letter and correct the problem, how does it feel to see others not comply? If I pay my dues, how is it fair that others be allowed not to? People who move into HOA communities expect their boards to enforce the rules that everyone signed onto.

Please consider an alarming trend in HOA websites. A few years ago, my web searches took me to sites where people asked questions about HOA problems. Back then, almost every answer said to look first at the bylaws and covenants of that association before taking the given advice. Unfortunately, my recent web searches have taken me to sites where members are being encouraged to rise up against their associations with no regard for their governing documents. One specifically advised members to "void" the documents in their entirety. This trend is not helpful.

And finally, please consider moving forward with your idea for a Regulatory Board. It would bring both protection and accountability to HOA issues. Members would have a place to go for legitimate abuses, but would be reluctant to make frivolous charges. *or even false* Boards would have a place to find support for their proper actions, but would be reluctant to act in unreasonable or abusive ways. A Regulatory Board would solve problems for both members and boards.

Thank you.

Mondie Gallagher
Oyster Harbour
hmgallagher@atmc.net

March 2, 2012 Presentation to:
The House Committee on House Select Committee on
Homeowners Associations

By Peter Drez

Good afternoon Representatives,

My spouse and I are thirteen-year residents of Fairfield Harbour, a pre 1999 planned community, located just south of New Bern, on the Neuse River.

The common controlling community Declaration of Restrictions, filed in 1972, provides for a very limited set of POA responsibilities and lawful uses of a single annual uniform assessment. Being a pre 1999 planned community, these DOR's are the contractual obligation of the individual property owners.

The root problem seriously dividing our community is between those who assert that the community is as defined by our 1972 DOR's and those who believe they have the authority to change the community as they collectively desire, including the setting of the annual assessment at the increased level necessary to fund these changes.

With many of us content with enjoying life, those with change on their minds, have taken over the POA Board and all sponsored committees, locking out any opposing views. POA Board meetings have been closed to members, POA financials are now protected by a team of POA attorneys, questions submitted by members go

unanswered, and all POA business is declared as confidential and not available for inspection by members. The POA Board controls everything from qualifying and counting election votes, to appointing only like thinkers to committees, to using a team of attorneys to delay, and delay, any lawful requests for association information.

The POA Board uses our annual assessment as they desire, ignoring the very clear restrictions in the 1972 DOR's. They have used large amounts of dues to sue property owners, including myself, for notifying them that a proposed \$15 to \$20 million dollar real estate purchase was unlawful and would be challenged in court, even though the POA Board already had six identical attorney opinions. The POA set up an unlawful roadblock to attempt to intimidate those that opposed their goals and employees were fired for receiving copies of emails opposing the purchase. I could go on with examples, but I now want to focus on how you can help fix the problem.

The solution in a word is "accountability". When the POA Board in Fairfield Harbour decided to spend \$15 to \$20 million on real estate, one of their first actions was to secure \$5 million liability policies for each member of the Board. Thus the problem is two folds, unlimited access to POA funds to pay for attorneys to intimidate POA members, and personal protection from any accountability for their actions.

My request is that the Planned Community Act be amended to limit liability insurance protection of Board Members and sponsored

committee members to \$50,000. This will highly encourage Board members and sponsored committee members to fully research their actions prior to implementation. In my opinion, no other single change to the Planned Community Act would provide more overall positive results. North Carolina needs a Planned Community Act that encourages Board Directors that respect their authority and limitations, and discourages those seeking Board positions to test the limits of their authority for personal agendas.

Thank You

JANET NAPOLITANO
Governor



Richard Edwards
ROBERT BARGER
Director

#19

3/2
handout

DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

1110 WEST WASHINGTON, SUITE 100
PHOENIX, ARIZONA 85007
(602) 364-1003
(602) 364-1052 FAX

PIMA COUNTY
400 WEST CONGRESS, SUITE 121
TUCSON, ARIZONA 85701
(520) 628-6920
(520) 628-6930 FAX

OFFICE OF ADMINISTRATION * OFFICE OF MANUFACTURED HOUSING * OFFICE OF STATE FIRE MARSHAL

September 1, 2006

In 2006, the Arizona 47th Legislature passed legislation in the form of HB2824 that provides the people of Arizona a venue to homeowners and condominium and planned community associations (HOA) to resolving disputes. These administrative procedures do not limit the rights of the parties to pursue matters in the legal system, but provides an alternative. This legislation becomes law on September 21, 2006.

Until the legislation becomes law, we cannot process any applications because we do not have the legal ability to do so. Thus, any forms or applications received before September 21, 2006, will not be processed until then.

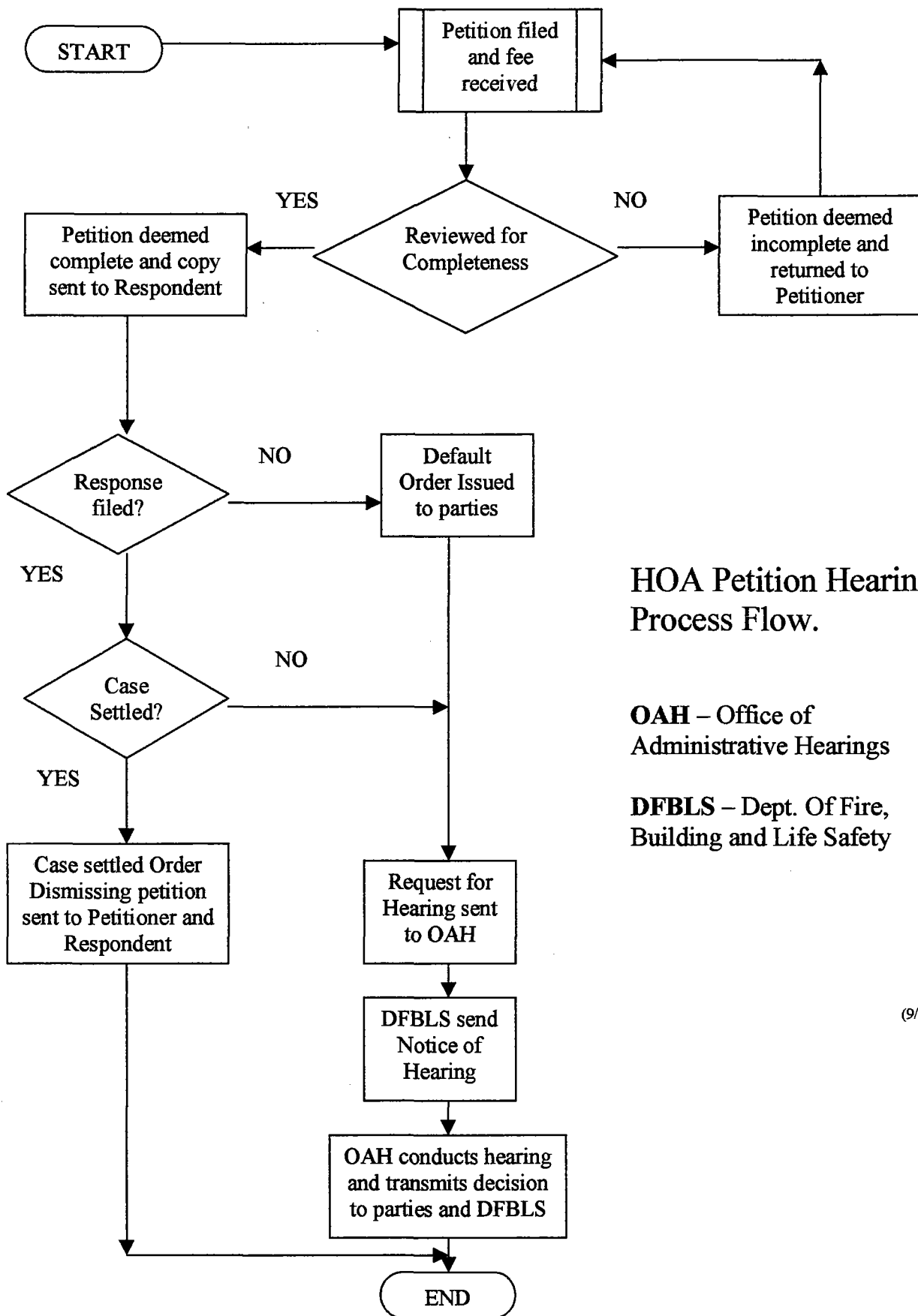
There are a few points of the legislation that need to be made perfectly clear.

- The \$550 Filing Fees are NON-Refundable, by law.
- Only Homeowner can file a complaint; renters or non-owners cannot.
- The complaint must be against the condominium or planned community association. Not directors, representatives, other homeowners, management companies or such.

Remember this is new to everyone, so we will try to make the implementation of the legislation as smooth as possible, but patience may be required while we work through any problems. Thanks for your understanding.

Sincerely,

Robert Barger, Director
Department of Fire, Building and Life Safety



HOA Petition Hearing Process Flow.

OAH – Office of Administrative Hearings

DFBLS – Dept. Of Fire, Building and Life Safety

(9/1/06)

STATE OF ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

PETITION FOR HEARING AND ANSWER

____(Homeowner) __Condominium or Planned Community
Association (CPCA)

PLEASE PRINT OR TYPE

This form must be fully completed (**requested information and documents must be provided or the petition may be returned as being incomplete**) and submitted with a check or money order in the amount of \$ 550 filing fee, which is **nonrefundable**, with copies of the applicable provisions of the Condominium or Planned Community documents.

Submit petition to:

LTS Dept.

Department of Fire, Building and Life Safety

1110 West Washington Ave., Suite #100

Phoenix, AZ 85007

1. Petitioner's Name: _____
2. Daytime Phone: _____
3. Name of Condominium or Planned
Community: _____
4. Petitioner's Address: _____

5. Name, address and phone number of the **ASSOCIATION** of the
Condominium or Planned Community (statutory agent)

6. Name, address and phone number of the company responsible for
MANAGEMENT of the Condominium or Planned Community (if any):

7.

COMPLAINT

- Describe the specific acts or conditions that you believe are violations of the statutes that regulate condominiums or planned communities. List the specific dates when each act occurred or when each condition came into existence. Each act or condition shall be separately stated in the spaces provided below.
- For each act or condition, list in the corresponding space provided below the section number of the applicable statute(s), which you believe, has been violated. Any petition that does not separately state each act or condition with a separate citation to the specific section of the statute that relates to each act or condition, and fails to list the specific provisions of the Condominium or Planned Community documents will be considered to be incomplete and will be returned and not fully processed.
- If the complaint involves the failure to receive the Condominium or Planned Community documents specifically state that they are unavailable and the facts and circumstances why they cannot be provided with the petition.

	Act or Condition	Applicable Section of the CPCA Documents	OR	Applicable Statutes
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

(Attach page for additional allegations)

8. The undersigned person requests that a hearing be held regarding this petition and complaint.

Petitioner: _____ Dated: _____

9. Person(s) signing on behalf of Petitioner. Note: The act of signing on behalf of the named petitioner does not make the signer a petitioner but does signify that the signer has been authorized to act on behalf of the named petitioner to request a hearing):

(Print and Sign Name(s) and Date)

10. If the signer of the petition is not the petitioner, please provide the following information:

Address of signer of petition:

10. Daytime phone of signer of petition:

11. Number of witnesses that Petitioner will call to testify at hearing: _____

* * *

Reminder: failure to fully complete this petition including the failure to submit copies of the applicable Condominium or Planned Community Documents may cause this petition to be considered incomplete.

* * *

Frequently Asked Questions

1. *Who can request a hearing?*

Pursuant to A.R.S. § 41-2198.01(B), in a petition, a person can state that a hearing is desired. The petition is to be signed by a petitioner or signed by a person(s) on behalf of a petitioner.

2. *Who is the petitioner?*

Prior to a matter being referred to the OAH for a hearing, there can only be one petitioner for a petition. The petitioner is the name of the person who is identified on the petition as the petitioner. A.R.S. § 41-2198.01(b) involving disputes between an owner and a condominium association or planned community association, which provides for a petitioner (singular) to file a petition for hearing with the Department along with a nonrefundable filing fee

Although A.R.S. § 41-2198.01(C) provides that the petition made be signed by persons on behalf of the petitioner, the fact that one or more persons sign a petition does not elevate that person to petitioner status.

3. *How do different petitioners request to have their hearing consolidated?*

After the matter is set for a hearing before the OAH, a petitioner may request to have one or more hearings consolidated by filing such a request with the OAH and comply with OAH's procedures and rules.

4. *Who can act as a representation of a party?*

If a party is an individual, the person may represent himself/herself or arrange for legal counsel.

If a party is a legal entity that is identified in Arizona Supreme Court Rule 31, it may have an authorized employee or officer represent it provided

there is compliance with the rule or the entity may arrange for legal counsel.¹

5. *Who issues a default decision?*

If a respondent does not submit a response in answer to the petition, the Director shall issue a default decision.² The Director shall issue an Order finding the respondent in default and deem the allegations in the petition admitted.³ In that Order, the Director will refer the matter over to the OAH for a hearing upon default and issuance of an Administrative Law Judge Decision (Findings of Fact, Conclusions of Law and Order).

6. *Who issues the final agency decision?*

The Administrative Law Judge Decision is the final decision.

7. *Why was the filing fee set at \$550?*

The legislation mandated that this program is self-funded or self-sustaining. Thus, this program should not be a burden on the state taxpayers but be paid for by the persons that utilize this program.

¹ Notwithstanding the representation provisions set forth in A.R.S. § 41-2198.01(I) and 41-2198.04(D), Arizona Supreme Court Rule 31 controls over representation issues before the OAH.

² See A.R.S. § 41-2198.01(F).

³ A.R.S. § 41-2198.01(B) contemplates disputes between an owner and a condominium or planned community association. Therefore, because there is only one respondent there is no issue of how to handle defaults of multiple respondents as is the case with LT matters.

First I would like to thank all the members of this committee for listening to us today.

My wife and I retired in 2007 in Phila. We decided to move south for the warmer weather and to get away from the hustle and bustle of a large city. We chose Elizabeth City for the closeness to the outer banks and the occasional six hour drive back to Phila. We bought a small home in the village section of Pelican Pointe, a subdivision in Elizabeth City. Pelican Point is divided into three sections, the commons where there are townhouses, the point where the homes start at around \$300,000 and the village which was referred to us as an over 55 community. At this time Pelican Pointe had a declarant and had not been turned over to a homeowners association as yet. The following is in chronological order to what took place back then:

Feb. 2007, We moved to the Village at Pelican Pointe.

2008, One of the developers of Pelican Point Bob Smith sold 70 lots in Pelican Pointe Village to Coplon Development of Virginia, an obvious real estate speculator, For a little over \$1,000,000.

Dec. 2010, The declarant turned over Pelican Pointe to an elected executive board comprised of three men. They were elected with the strong support of Coplon Development's 70 votes.

March 2011, The under 55 years of age restriction suddenly went away. Apparently it was stated in the rules and regulations but not in the bylaws. However the homes in the Village of Pelican Pointe were advertised and sold by Long and Foster as an over 55 retirement community.

June 2011, the President of the H.O.A. and the owner of three lots, one with a house on it resigned.

Nov. 2011, The new incoming president resigned leaving only one member from the original board left and then he became president. In subsequent weeks a new member was appointed and one was elected with Coplon Development's support. In both elections Coplon Development was in default for nonpayment of dues the year leading up to the elections and finally paid one day before the election so he would become current on his dues. During the year leading up to the election the executive board refused to have a hearing on his nonpayment of dues. Without his support the executive board could not remain in power.

Since the most recent elections the residents of the Village at Pelican Pointe have lost many of the amenities that they bought here for. While the dues for

the village and the commons have increased by 25% to over \$2000 per year, with very little to show for it. Now most of our dues are going to building infrastructure to improve Coplon Development's chances to sell some of his 70 lots in a very soft real estate market. The current president of the H.O.A. has taken over the duties of treasurer, we presently don't have one. He is also head of the A.R.C. , head of the crime watch and runs the maintenance of Pelican Pointe without input.

It is quite obvious that 47F, although well Intentioned, is not a comprehensive statue and problems will continue until it is revised.

Entirely too much power is given to the owners of dirt and to the executive boards of H.O.A.s. I live in Pelican Pointe with my wife this is my home , we are not a profit and loss statement.

One hundred and fifty years ago Southerners had a name for companies and people who took advantage of this type of situation in the South.

Robert H. Fuhrman

STANLEY A. SLAWINSKI, Ph.D. GYSTE HARBOUR
BRUNSWICK COUNTY,

Honorable Chairs, Carolyn Justice, and Jonathan Jordan, and members of the House Select Committee:

Thank you for allowing me to address this body of the House Select Committee on Homeowners Association.

You must have the patience of Job and the Wisdom of Solomon to hear and properly analyze the material brought before you.

The expressed hostility toward HOA's includes some of the following allegations:

Poor Management	Lack of Democracy
Corrupt Associations	Vindictiveness
Selective Enforcement	Cheating with Proxies
Arrogance	Total Rotten
Abuse of Power	Secret <u>deals</u>
Secret Meetings	Rescinding Building Permits

I have not seen this in my community

Well run HOA's abide by these essentials:

Communication	Amenity Maintenance
Newsletters	Use of Governing Documents
A Website	Use of Proxy Voting
Open meetings with handouts	Addressing Delinquent Accounts
Annual Budgets	Use of volunteers
Reserve Studies and reserves	Accounting and Audits
And Foreclosures are the last stop	

Ladies and Gentlemen, your role to respond appropriately to all facts and concerns is important. There has been a rash of negative publicity about HOA's. Reporters have trolled the halls for stories. Some have been sensationalized and unverified. Unfortunately we find that those who complain most are those who have never participated in the community.

Nonetheless, there are valid concerns that this committee can address. The issues of the use of proxies with a clarification of their process and necessity are essential. A review of the remedies for violations of Covenants and Rules and Regulations should be addressed. Managers licensing is important.

The Committee should develop a method of enforcing the Governing Documents and resolving disputes between Board and Homeowners. Perhaps a Board or State Agency should be established to enforce appropriate definition and interpretation of statutes and laws. Mandatory mediation or other methods of alternative dispute resolution should be explored. Disclosure to all buyers in HOA's must be made mandatory

Please do not over regulate. Clarify and enforce the qualities of operating productive HOAs

Thank You.

I WOULD LIKE TO BE INVITED TO RALEIGH WHEN
THE COMMITTEE DOES ITS DELIBERATIONS.

Thank you,

Henry A. Slawinski

SSLAWINSKI@ATMC.NET

910-846-2554

Steve Chase

3/2/2012 – Speech to House Select Committee Hearing on HOAs

Comments
Submitted
3/2

Good evening. My name is Steve Chase and I am a resident of Oyster Harbour. I am part of a group that has been recently labeled "A SMALL GROUP OF MEAN-SPIRITED AND ANGRY ENABLERS" by the "RESIDENTS WHO LOVE OYSTER HARBOUR (no names supplied)". This occurred in a recent letter sent to Oyster Harbour residents. The letter appears to be a direct response to those of us who dared to testify before the House Select Committee, in Raleigh. What we really are is a group of residents who have opposed the actions of our dictatorial HOA Board of Directors. If you dare to disagree with this Board, you are attacked by them in various ways for little or no disagreement is allowed. I experienced this personally as I created compost piles of grass on the edge of my property throughout the summer, fall and winter. Suddenly, after opposing the Board, I received a Property Violation Notice, on January 12, 2012, giving me 14 days to remove them. They were removed in 4 days. On Jan. 27th, I notified the Board and CAS (Management Company) that there was a 23 ft. dead tree that had fallen to the edge of my property, from the empty lot next to me. I asked them to remove it in 14 days and nothing has been done as of today (3~~4~~ days).

The current Board of Directors has been in power, for the past four years, and has incurred extremely large legal fees compared to the previous year and the legal expense budget of \$20,000 /year, as follows:

2007-2008	President Joe Creekmore	\$3,454
2008-2009	President Dan Evans VP Joan Ross Member BOD Hank Gallagher	\$169,926
2009 -2010	President Joan Ross Secretary Hank Gallagher	\$68,983
2010-2011	President Hank Gallagher Secretary Joan Ross	\$32,300
2011-2012	President Joan Ross VP Hank Gallagher	\$48,034

**** The TOTAL LEGAL EXPENSES FOR 2008 – 2011 ARE \$319, 243!!!

This Board has maintained and continues to maintain their control of Oyster Harbour and the Board by use of the egregious UNLIMITED PROXY. There are approximately 60 homes, in Oyster Harbour, with a total of 471 properties. Therefore the lots are owned mostly by remote property owners. On anything to be voted on an Unlimited Proxy is sent to the remote property owners. Option 1 on the Proxy is to return the Proxy to the Board of Director's Secretary (a Board member). Option 2 is to return it to someone of your choice. You can well imagine who most of the Proxies are returned to. The Secretary then exchanges the Proxies for ballots (Proxies are not seen by anyone as far as I know) and then votes the ballots anyway he/she chooses no matter what the Proxy said. There are always far more Proxies than ballots from residents so the Board is able to control every vote taken. If we tried to have a vote on the Unlimited Proxy's existence, we would be defeated by the use of the Unlimited Proxy!!! A North Carolina law for HOAs should be enacted to do away with at least the Unlimited Proxy, if not all Proxies.

There are many more issues (.i.e. warnings about Reserves being too low, invalid option on a ballot for a vote on IRS 70-604, Board Meeting Rules, etc.) but time does not allow me to discuss these issues. Let me conclude with the shocking statement made by President Joan Ross, at our January 26, 2012 Board Meeting, which can be attended by any property owner. President Ross said and I quote "I KNOW SOME OF YOU DON'T LIKE ME AND I DON'T LIKE SOME OF YOU"!!! That feeling certainly does not lead to fairness, consensus and compromise. It appears that Oyster Harbour is not as tranquil and peaceful as the Board of Directors and President Ross would have you believe.

February 26, 2012

Rep. Jonathan Jordan
Rep. Carolyn Justice
Co-chairpersons
House Select Committee on Homeowners Associations

Dear Rep. Jordan and Rep. Justice,

In January, your House Select Committee on Homeowners Associations (HOAs) held a public hearing. The purpose of the hearing was to solicit comments from interested parties on HOAs as part of the legislative process. Seven Oyster Harbour property owners and residents attended the meeting and four of them provided comments.

Apparently, in reaction to these property owners and residents performing a civic duty and exercising their rights to participate in governmental processes and to express their views, a group known as "Residents Who Love Oyster Harbour" sent letters to a select group of Oyster Harbour property owners and residents, including all who attended the House Select Committee meeting. This group also published a one-half page advertisement in the Brunswick Beacon.

Enclosed are copies of the two communications referenced above. We want to share this information with you to show the vilification and criticism these residents, and their supporters, are encountering for their contribution of time, effort, and expense to share their HOA experiences with, and at the request of, the Select Committee.

We commend and support your leadership and the work of the Select Committee in investigating abuses of power by HOAs and in considering legislative changes to give HOA members more rights. We respectfully request that you include this letter and the enclosures thereto as a part of the public record you are compiling. Thank you for the opportunity to provide our comments.

Sincerely,

Oyster Harbour Property Owners and Residents

Stephen Chase *Darrell Cuckmore* *Jim S.*
Nicole Smith *Ray Averman* *Pat L. Green*
John *Linda Averman*
Ken + Peggy Papay *John Chaplin/Carsell* *a. Chaplin*
Joe Cresswell *Gayle Jensen* *Jack Heger*
Sandy Berg

Enclosures 2

cc: Oyster Harbour Board of Directors

Oyster Harbour Homeowners Speak Out in Favor of Our Community and HOA

As full-time residents and property owners of Oyster Harbour, we are very upset and disappointed to read/hear that a few malcontent residents (one who is not a property owner) have taken it upon themselves to slander our HOA and beautiful community. They are against HOA's, regardless of whether members are happy living in them, as they do not like HOA rules or structure. They seek out the Press to further their personal cause with little thought for their neighbors. With all the recent negative media attention generated by a select few, we feel we must speak out and that the public must hear from both Oyster Harbour property owners and satisfied Oyster Harbour residents who live here happily, in a gated HOA Community.

We are not going to stand by and allow a few unhappy residents to denigrate our community. We willingly pay dues for our services and amenities. We know and abide by our Covenants and gladly put in hours of volunteer service for a neighborhood we love.

There is another side to this story and it must be told:

*One person, who resides in Oyster Harbour but is **NOT** a property owner, swore an affidavit that caused the **false arrest** of a home owner...ALL charges against that home owner were immediately expunged by a District Court Judge because there was **no merit** to the original affidavit. This expunged record also included an order by the Judge for Brunswick County Sheriff's Office (via Sheriff Ingram) to "**EFFACE**" all documentation in reference to this entire event from their records.

*Our Association is managed by a professional management company, duly licensed and bonded in the State of North Carolina.

*Our Association has NO debt, operates within its budget, and functions effectively.

*Our Association owns (debt free) all of our first-class amenities including a gazebo, boat launch, pier, and dock on the ICW, boat storage facilities, clubhouse, swimming pool, lighted tennis courts, kayak dock on the Shallotte River, walking paths, ponds, fountains, picnic areas, zebos and all of the roads.

*Our Association hosts social events that all of the members are invited to attend by email notice, message board and personal telephone calls.

*No financial audit (conducted each year) has EVER demonstrated any financial impropriety by any Board member of our community.

*The Board holds meetings at least monthly and ALL homeowners are invited to attend and each has an opportunity to address the Board with any concerns.

*The only Association business not conducted at open meetings is that of a confidential nature regarding members...i.e. non-payment of dues.

*Our Treasurer makes a report at each Board meeting and anyone who attends and wishes to receive a copy of the financial reports can get one at the meeting. These reports are posted on our web site as well.

*Every **Current** Board member has signed a Code of Ethics. One of these same malcontents screaming about this Board's actions **refused** to sign the Code of Ethics agreement when he was on the Board.

*The Board cannot "Rescind" a building permit...Only the **County** can issue or rescind a building permit.

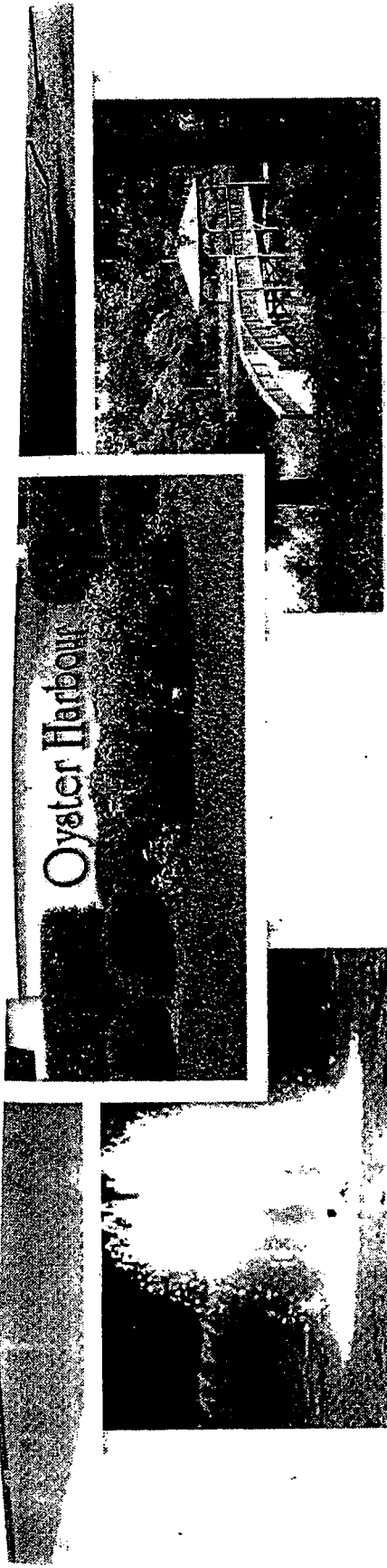
*The Rules and Regulations for Oyster Harbour are written according to the North Carolina State Statutes and are standard among all HOA Associations of North Carolina.

We love our beautiful community and appreciate very much the hard work and dedication that is demonstrated by the volunteers that comprise our HOA Board and our numerous committees. It is unfortunate that because of all the negative media attention brought about by a non-owner, the pawn of a small group of mean-spirited and angry enablers of his, **ALL of our property values have suffered from his actions, while he literally has nothing to lose.** The quiet enjoyment of our entire neighborhood has been disrupted!

ENOUGH is ENOUGH! We are outraged and we are not going to take it anymore!

Residents Who LOVE Oyster Harbour

And are committed to protect our Investment



OYSTER HARBOUR

Not all oysters have pearls...please come visit one that does! Oyster Harbour is a community of 470 privately owned lots, with amenities and roads in place, all debt free. When thinking of a beautiful and serene location on the Intracoastal Waterway, think Oyster Harbour first!

Passing through our gates you will immediately feel the beauty of nature, open spaces, large home sites and the abundance of trees. Ask for a tour of our facilities: boat launch, pier, and gazebo on the ICW, boat storage facilities, clubhouse, nature trails, natural and man-made lakes, kayak dock, lighted tennis courts and swimming pool. Our clubhouse is the central gathering point for Oyster Harbour's social and community events.

Our HOA members elect a Board of Directors and our professional management company takes care of the

daily affairs of the association with input from members and their committees. We believe in the protection of property values for all, transparency and the financial stability of the Association.

We feel that working together is the solution. Association dues have not increased in four (4) years because we manage our finances judiciously. We have never foreclosed on a property. There is no litigation outstanding, pending or contemplated.

We are happy to live in Oyster Harbour and believe we are truly a "Rare Find", especially in the current economic and real estate climate. Ask your Realtor about the opportunities in Oyster Harbour, a financially sound, waterfront community on the Intracoastal Waterway.

Paid for by: Residents Who Love Oyster Harbour

Public Hearing
3/2
Comment
Submitted

House Select Committee on Homeowners Associations

To: Rep Jonathan Jordan, co-chair
Rep. Carolyn Justice, co-chair
Rep. Justin Burr
Rep. Kelly Hastings
Rep. Darrell McCormick
Rep. Rodney Moore
Rep. Tim Spear
Rep. Jennifer Weiss
Rep. Winkie Wilkins

Mr. Chairman,

My name is Suzanne Baer. I live in Dare County, North Carolina.

The Homeowners Association (Pirates Cove) that I am a member, was formed prior to the enactment of the North Carolina Planned Community Act. Although homeowners have requested that the Board of Directors, (BOD's), call for a vote to adopt the Act, they refuse to do so.

Our Declarant amended the bylaws in 1992 to extend the Declarant control period to 2003. Included in the amendment was "any bylaw change could only take place if the BOD's agreed with the change unanimously and 2/3 rd's of the homeowners agree". We currently have 583 homeowners. In the absence of a quorum, the BOD's will continue to self elect, giving the homeowners no control over their dues and the management of the community. There has not been an official meeting for 20 years.

In August of 2008, our property manager failed to preserve our corporate charter and our HOA was dissolved. The Charter was reinstated three years later when it came to light during a lawsuit against the management company and BOD President for selective enforcement of the Rules by a homeowner.

At an unofficial meeting in March of 2010, our Developer/Director announced that he had worked out a deal on a purchase of land for a community boat storage facility. This was an unofficial meeting without a quorum, but by the show of hands our Developer/Director negotiated the purchase. \$225,000 was taken from "excess cash" and then the land was encumbered by a loan of an additional amount of \$225,000 without an appraisal. Our bylaws state any amenity encumbered must have a 60% vote for approval. It was discovered later the tax assessment was and still remains today \$229,000.

Adjacent to our community is a marina, restaurant and ships store partially owned by our Declarant/Director and other BOD. Also on site is a sales and rental company owned by the HOA management company. Our covenants and restrictions prohibit the installation of signs and billboards. Recently the BOD's

voted to keep a sign on common area owned by the HOA that directs guests to these privately owned entities while owners wish to use an open house balloon or other means to identify an open house and are enforced to immediately cease and desist the use of these items. Meanwhile, our management company moves forward on foreclosures.

47F-3-109 of The North Carolina Community Act could resolve our issues. This would allow a quorum to be achieved through reduction of quorum requirements. Therefore allowing homeowners to vote and elect new BOD's.

47F-1-102 Applicability (d) is unclear.

(d) Notwithstanding the provisions of subsections (a) and (c) of this section, any planned community created prior to January 1, 1999, may elect to make the provisions of this Chapter applicable to it by amending its declaration to provide that this Chapter shall apply to that planned community. The amendment may be made by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven (67%) of the votes in the association are allocated or any smaller majority the declaration specifies. To the extent of the provisions of this subsection, this subsection shall control with respect to any amendment to provide that this Chapter applies to that planned community.

Subsection (d) is not clear because it does not state whether the BOD's must approve prior to the amendment. And secondly, it does not identify the period of time needed to achieve the 67% vote or written agreement.

Was the amendment to the bylaws in 1992 legal to include the 100% vote of the BOD's to change any future bylaw?

I feel clarification of 47F1-102 is needed.

Sincerely,

Suzanne C. Baer,
18 Spinnaker Ct.
Manteo, NC 27954
252-305-2237

March 2, 2012

Honorable Members of the House Select Committee:

Ladies and Gentlemen. Thank you for the opportunity to speak to you today. I'M Doctor Bernard Levin. I have lived in Fairfield Harbour, a gated community, for 27 years. I chose to live in such a community because the DOR'S and By-laws offer some assurance that the appearance of the community which first attracted me would remain desirable because of those very regulations.

Rules and regulations, however, have to be enforced, and in most communities like ours, that responsibility falls to the duly elected members of the Board of Directors. These people serve as volunteers, devoting untold hours of their precious retirement years in an effort to better the lives of the residents of their respective communities. They are often under the duress of verbal abuse and more recently in our litigious society, are obligated to defend themselves in court from frivolous and unwarranted charges. These charges most often come from residents who understood and agreed to the DOR'S and By-laws when they purchased their properties, but now feel that somehow, these regulations no longer apply to them.

One such recent legal action resulted in the court handing down a devastatingly wide and sweeping decision which makes it impossible for Boards to effectively function for the betterment of their communities.

I urge this influential committee not to recommend any law which will further restrict home owner associations from properly discharging their duties and responsibilities.

Again, allow me to thank you for your time

Theodore Orengo
225 Broken Spur Court
Rocky Point, NC.
28457
910 623-4390

North Carolina House Select Committee for Home Owners Association
Meeting of March 2, 2012
Place: Havelock Tourist & Event Center
201 Tourist Center Drive, Havelock, NC. 28532

First of all I'd like to thank you for the work you are doing in protecting home owners from illegal Home Owners Associations. I am Theodore Orengo and live in Rocky Point, NC. In Willows Bay Subdivision.

My main reason for coming is to make you aware of regulations the Willows Bay Home Association is violating. I have a packet to give you, of all the violations and have included pictures to show you what I'm talking about.

47F-3-108 (a) page 11

1. On July 18, 2008 two young boys approximately 8 to 10 years of age were putting flyers in selected mail boxes and screen doors. The Covenant states that you are to give 10 days and no more than 60 days before a meeting by being hand delivered US mail or certified. The insertion of mail into mail boxes is illegal and only to be used by the USPS. Giving us 6 days notice for meeting.

2. On July 24, 2008 there was a meeting held at the local Elementary school where minority property owners from Willows Bay were excluded and not notified of meeting. They were not able to participate nor vote against the Association. The right to vote was taken away from them. Not telling them of meeting is a violation of Civil and Constitutional Rights according to Statute Title 18, USC Section 245 Federally Protected Activities.

By Laws 2-F

3. According to the Covenant there were supposed to be 75% of people for the meeting. At the time there were 153 property owners of which 32 people showed up at this meeting...2 to 3 were from same household.

47F-3-110 page 11

4. The Covenant states one vote per property owned of which 2 to 3 people from same household voted for the HOA. Total, Sixteen people voted for the HOA.

5. The Covenant states that in order to have a Home Association you must have at least 75% of property owners and 75% of those must vote Yes to have a Home owners Association.

6. According to the Covenant the developer , if he owns 25% of properties not sold he would have a say. If he does not own 25% , he does not have a say what so ever. The one to set up this meeting was Douglas Golightly from Acreage Brokers Inc. I believe this was done intentionally to keep certain people from voting. At the time he owned 10 to 12% of properties left.

7. Mrs. Shroeder, want to be president of this illegal Home Association is lying to the homeowner by telling them that if you have private roads you must have a Home Association. Copy of letter stating when our streets were turned over to the state on November 2002.

8. According to the Covenant, the first week of May of every year, we are supposed to have a meeting. Each year we are to vote for new Board of Directors. The last 3 years we have not voted and the board keeps appointing themselves in. She is only supposed to serve on term. (Mrs. Shroeder)

By Laws 6-E

9. According to the By Laws the HOA is supposed to send you after the fiscal year a statement of all checks and balances and all expenditures in detail. Sent by mail, this has never been done.

I sent her a certified letter return receipt requesting to look over the books and as of yet I have not had a reply. I did get my return receipt back. It now has been almost 3 months and nothing.

10. According to the Covenant HOA's are supposed to make sure that these properties are kept up to date with clean surroundings, no junk cars, tractor trailers, RV's, unregistered vehicles etc. Copies of photographs with violations being committed.

11. I notice if you pay your dues you can have as much junk and trash as you want. The number one violator is Mrs Shroeder

12 . There have been African Americans Mrs. Shroeder has harassed for having unregistered vehicles in the back of their homes, while white property owners have junk, trash, and hazardous conditions on their properties and she has never said anything to them. Making Willows Bay an eyesore and dangerous for children, visitors and ourselves. If this HOA were legal , people would have gotten a letter or fine until they cleaned up their properties. If you pay you dues than you can have all the garbage that you want and you're left alone.

13. Mrs. Shroeder said there was \$ 14,000.000 in Willows Bay account and wanted to build a boat ramp and would need \$200,000.00. We need that like a hole in the head. These monies are being used for things that are not necessary.

14. Instead of sending notices for the meeting of May 7, 2011 they put up a Banner behind the Willows Bay entrance sign, which is approx. 40 to 50ft. off the road and behind bushes, making it hard for people to see. It had NO TIME, NO PLACE of meeting and NO INTERNET ADDRESS. She stated at meeting it would save money on stamps.

15. I Theodore Orengo took it upon myself to call the Pender Co. Dept. Roads and Transportation and they came out and cleaned up approx. 90 bags of trash. They bought in a large machine and cut the grass and cut back the bushes. They even filled in some pot holes. All this, not including what I myself have cleaned up. The Home Association has not made an effort to maintain the surroundings and it's starting to look the way it was.

16. The last meeting of 2011 Mrs. Shroeder made false statements and accusation against me stating That I coerced the property owners not to pay their dues. This is a total Lie. She said 54% of people haven't paid their dues because I supposedly told them not to. She is a compulsive liar.

I will be giving you photographs and documents of things I have mentioned. Should you have any questions, input, help, or advise it would be most appreciated. If I didn't care I wouldn't be at this meeting today. Thank you again.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theodore Orengo', written in a cursive style.

Theodore Orengo

COPY

Theodore Orengo
225 Broken Spur Court
Rocky Point, North Carolina
28457

April 21, 2011

Ms Schroeder,

I have noticed a poster at the entrance of Willow Bay, which is covered by trees and bushes. It reads that there will be a meeting the first Tuesday of May. It also states that for further information to look up the Web sight. You must realize that a lot of people still do not own a personal computer.

If you had read the Covenant Act Chapter 47F and the by laws, it will explain how to properly go about having a meeting. You are supposed to give notice in writing Ten [10] Days prior to meeting by letter, delivered by the USPS or hand delivered to all property owners. You must realize many of them do not live here and you need to contact them also.

If you don't have a copy of the Covenant or the By laws please let me know and I will give you one. These laws are not written by me, but by the Dept of Secretary of the State of North Carolina and every Legal Home Association and you must abide by it.

This is another law the Illegal Willow Bay Home Association and yourself are violating.

Sincerely,


Theodore Orengo

This is what Mrs Nancy Schroeder (1-2) has sent to all the Home owners in Wallaw bay H.O.A

PENDER COUNTY SUBDIVISION ORDINANCE HOMEOWNERS ASSOCIATION REQUIREMENTS

1. All subdivisions with more than three lots or units that contain private streets, drainage facilities not in public streets, common walls, open space or any other common area or facility shall provide for a Homeowners Association.

2. All subdivisions ~~required to have Homeowners Associations~~ shall convey ownership of all private streets, drainage facilities not in public streets, drainage easements, common walls, open space or any other common area or facility to the Homeowners Association. ✓

3. The Homeowners Associations may not subsequently subdivide any open space area unless a final plat is approved by the Pender County Planning Board and the plat recorded in the Registry.

4. Homeowners Associations must be organized and incorporated under the provisions of NCGS 47A, 47C or 47F.

5. The Homeowners Association documents shall be recorded within 10 days of recording the initial Final Plat and in legal existence prior to conveyance of a lot or unit in the development.

6. A copy of the recorded Homeowners Association documents shall be submitted to the Director within 10 days of recording to be placed in the Record File of the subdivision.

7. The Homeowners Association documents shall require the following:

a. Membership shall be mandatory for each original purchaser and each successive purchaser of a lot or unit in the subdivision.

b. The Homeowners Association shall have the authority to levy assessments against its members or any lot or unit owners in the development for the cost of operation and maintenance, improvement and repair of all common areas or areas and facilities owned by the association which benefits its members. ✓

c. Assessments levied by the Homeowners Association and not paid shall constitute a lien on the lot of the owner.

d. The Homeowners Association shall be responsible for the maintenance of all private streets, drainage facilities not in public streets, common walls, open space or any other common or private area or facility in the subdivision.

e. The Homeowners Association shall be responsible for the maintenance and payment of premiums for liability insurance for the Association.

f. The Homeowners Association shall be responsible for the payment of any advalorem taxes levied on property or facilities titled to the Association.

g. The Homeowners Association shall be responsible for the payment of any public or private improvements made to or for the benefit of the common areas or facilities for which the association owns or has maintenance responsibility.

public

ADDED TO THE STATE SYSTEM

Las Tortugas BEGIN MAINTAINING IMMEDIATELY

22

New Hanover	46203	1698.20 ft.	Yulan Drive	11/1/02
New Hanover	46204	2162.01 ft. 823.15 ft. 1656.11 ft. 171.08 ft. 286.00 ft.	Farrington Farms Subdivision Farrington Farms Drive Daybreak Lane Old Well Loop Buckhurst Court Myric Court	11/19/02
New Hanover	46205	1411 ft. 735.82 ft.	Ogden Park Subdivision Ogden Park Drive West Ogden Park Drive East	11/20/02
Pender	46206	102 ft. 780 ft. 151 ft. 396 ft. 303 ft. 1969 ft. 1868 ft.	Willows Bay Subdivision Beaver Cove Court Broken Spur Court Eastwind Court Green Hill Court Lone Star Court Willows Bay Drive Windward Drive	11/6/02
Pender	46207	2156.47 ft.	West Strawberry Ln.	11/6/02

December 20th 2011 (1-2)
Theodore Orenzo
225 Broken Spur Court
Rocky Point, North Carolina
910-6234390

Mrs. Nancy Schroeder

My name is Theodore Orenzo, You have stated that I am a member of this illegal Willows Bay Home Owners Association and if so, the Covenant and By Laws give me the right to make an appt. with you to look over the financial books and checking statement of all payout and expenditures. I want to see the checks and to whom they were made out to and for what reason. purpose

I also want the names ~~of~~ and addresses of the people who have paid you and copy of the names of the people ~~whom~~ Willows Bay

has a lien against their home

I'd like to set an appt with
you for January 7th, which is a Saturday
at 2pm. To confirm this appointment
please notify me by letter ~~or~~ in
writing or a phone call, then
we'll settle on a place of meeting
I love

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature X</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
1. Article Addressed to:		B. Received by (Printed Name) <i>Mr. Schreier</i>	C. Date of Delivery <i>1/7/04</i>
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
NADY Schreier 197 Greybeard Drive. Rocky Point, North Carolina 28457		7010 1670 0001 9687 4955	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

28457

LAWRENCE S. BOEHLING

ATTORNEY AT LAW
203 S. WRIGHT STREET
POST OFFICE DRAWER 1416
BURGAW, NORTH CAROLINA
28425-1416

Telephone: 910-259-3334

Facsimile: 910-259-3150

June 6, 2011

Lot Owners of Willows Bay Subdivision

re: Homeowner's Association and dues, Willows Bay Subdivision

Dear Lot Owners:

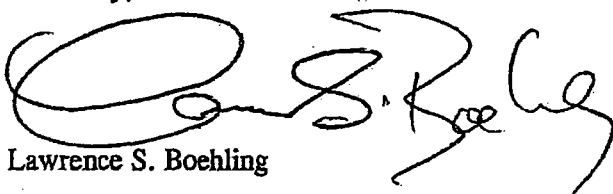
I have been asked to give an opinion regarding the Restrictive Covenants and the Homeowners Association established for Willows Bay Subdivision. The original Restrictive Covenants for Willows Bay Subdivision were recorded in Book 1332, Page 343 of the Pender County Registry. Various supplemental covenants have been recorded which extended the Restrictive Covenants to new phases of the development as adding additional phases was provided for in the original Restrictive Covenants.

As to the Homeowner's Association, under Paragraph #18 of the Restrictive Covenants, the Willows Bay Homeowners Association was established including its basic structure, authority to assess dues, etc.

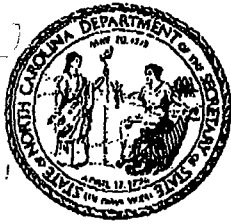
The Willows Bay Homeowners Association was incorporated by Articles of Incorporation indexed on April 6, 2004 in the office of the North Carolina Secretary of State. It was established as a North Carolina non-profit corporation and is currently in good standing with the State of North Carolina. In accordance with both the Restrictive Covenants and the Articles of Incorporation the Willows Bay Homeowners Association has the ability to assess dues in conformity with these documents and with the By-Laws as adopted from time to time by the corporation and its members (the lot owners of the Association).

To summarize, the Willows Bay Homeowners Association is a North Carolina non-profit corporation in good standing with the ability to make assessments as provided in Paragraph 18, of the Restrictive Covenants and if which are unpaid, shall become liens against said lot.

Sincerely,



Lawrence S. Boehling



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

WILLOWS BAY HOMEOWNERS ASSOCIATION, INC.

the original of which was filed in this office on the 6th day of April, 2004.



IN WITNESS WHEREOF, I have hereunto
set my hand and affixed my official seal at the
City of Raleigh, this 6th day of April, 2004

Elaine F. Marshall

Secretary of State

SOSID: 719689
Date Filed: 4/6/2004 12:57:00 PM
Elaine F. Marshall
North Carolina Secretary of State
C200409300234

**ARTICLES OF INCORPORATION
OF**

WILLOWS BAY HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned natural person of full age has this day executed these Articles of Incorporation for the purpose of forming a non-profit corporation and hereby certifies:

ARTICLE I

The name of the corporation is **WILLOWS BAY HOMEOWNERS ASSOCIATION, INC.**, hereinafter called the "Corporation".

ARTICLE II

The principal and registered office of the corporation is located at **138 Willows Bay Drive, Rocky Point, North Carolina 28425.** (Pender County)

ARTICLE III

Jim Hammonds, whose address is **138 Willows Bay Drive, Rocky Point, Pender County, North Carolina 28425**, is hereby appointed the Initial registered agent of the Corporation.

ARTICLE IV

The Corporation does not contemplate pecuniary gain or profit to the members thereof, and no part of the Corporation's net income shall inure to the benefit of any of its officers, directors or members or any other private individual. The purposes and objects of the Corporation shall be to administer the operation and management of **Willows Bay**, a subdivision (hereinafter called the "the Development"), to be established in accordance with the laws of the State of North Carolina upon the property situate, lying and being in **Rocky Point Township, Pender County, North Carolina**, and more particularly described on a map recorded in Map Book 31, Page 137, Section I; Map Book 32, Page 134, Section II; and Map Book 34, Page 147, Section III; and the Restrictive Covenants for **Willows Bay Restrictive Covenants** recorded in Book 1332, Page 343, Section I; Book 1514, Page 40, Section II; and Book 1858, Page 50, Section III of the Pender County Registry, which said description is made a part hereof by reference; to undertake the performance of the acts and duties incident to the administration of the operation and management of said Subdivision in accordance with the terms, provisions, conditions and authorizations contained in these Articles of Incorporation, and each subsequent amendment thereto at the time said property, and the improvements now or hereafter situated thereon are submitted to the plan of ownership; and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of said subdivision.

ARTICLE V

The Corporation shall have the following powers:

1. The Corporation shall have all the powers and privileges granted to Non-Profit Corporations under the law pursuant to which this Corporation is chartered, and all of the powers and privileges which may be granted unto said Corporation under any other applicable laws of the State of North Carolina.
2. The Corporation shall have all the powers reasonably necessary to implement and effectuate the purposes of the Corporation, including but not limited to the following:
 1. To make and establish reasonable rules and regulations governing the use

of individually owned properties and Common Property of the Subdivision as said terms may be defined in the Restrictive Covenants recorded as aforesaid, and in the bylaws of this Homeowners Association.

2. To levy and collect assessments against members of the Corporation to defray the common expenses of the Subdivision as may be provided in the By-Laws of this Corporation which may be hereafter adopted, including the right to levy and collect assessments for the purpose of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, which may be necessary or convenient in the operations and management of the Subdivision and in accomplishing the purposes set forth in said Bylaws.
3. To maintain, repair, replace, operate and manage the Subdivision and the property comprising same, including the right to reconstruct improvements after casualty and to make further improvement of the Subdivision property, and to make and enter into any and all contracts, including those with State and local health agencies, necessary or desirable to accomplish said purposes.
4. To contract for the management of the Subdivision and to delegate to such contractor all of the powers and duties of the Association except those which may be required by the Bylaws to have approval of the Board of Directors or membership of the Corporation.
5. To acquire and enter into, now or at any time hereafter, leases and agreements whereby the Association acquires leaseholds, memberships and other possessory or use interests in land or facilities including, but not limited to, swimming pools, tennis courts, and other recreation facilities, whether or not contiguous to the lands of the Subdivision, to provide enjoyment, recreation or other use or benefit to the owners of properties within the Development. *
6. To enforce the provisions of these Articles of Incorporation, the By-Laws of the Corporation which may be hereafter adopted, and the rules and regulations governing the use of the Subdivision as the same may be hereafter established.
7. To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Corporation pursuant to the By-Laws aforementioned.

ARTICLE VI

The qualification of the members, the manner of their admission to membership and termination of such membership, and voting by members shall be as follows:

1. The Owners of all individual lots of the Subdivision shall be members of the Corporation, and no other person or entities shall be entitled to membership, except as provided in Item (5) of this Article VI.
2. Membership shall be established by the acquisition of fee title to a lot in the subdivision, or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise, and the membership of any party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in such property, except that nothing herein contained shall be construed as terminating the membership of any party who may own two or more such properties, so long as such party shall retain title to or a fee ownership interest in a property or properties in the Subdivision. ?
3. The interest of a member in the funds and assets of the Corporation cannot be

assigned, hypothecated or transferred in any manner, except as an appurtenance to his property in the Subdivision. The funds and assets of the corporation shall belong solely to the Corporation subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in accordance with the By-Laws which may be hereafter adopted.

4. On all matters which the membership shall be entitled to vote, each property owner shall have a vote equal to his (her, their, or its) ownership of lots in the subdivision if an entity owns one (1) lot, it shall have one (1) vote. If an entity owns two (2) lots, it shall have two (2) votes and so forth.
5. The initial membership of the Corporation shall be comprised of the six (6) individuals named in Article XI hereof as the initial Board of Directors of the Corporation, and each such individual shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

ARTICLE VII

The Corporation shall have perpetual existence.

ARTICLE VIII

The affairs of this Corporation shall be managed by the President of the Corporation, assisted by the Vice President of the Corporation, assisted by the Vice President, Secretary and Treasurer, subject to the directions of the Board of Directors. The Board of Directors, or the President with the approval of the Board of Directors, may employ a Managing Agent and/or such other managerial and supervisory personnel or entities to administer or assist in the administration of the operation, and any such person or entity may be so employed without regard to whether such person or entity is a member of the Corporation or a Director or Officer of the Corporation, as the case may be.

ARTICLE IX

The number of members of the first Board of Directors of the Corporation shall be no more than seven (7). The number of members of succeeding Boards of Directors shall be as provided from time to time by the By-Laws of the Corporation. The members of the Board of Directors shall be elected by the members of the Corporation at the Annual Meeting of the membership as provided by the By-Laws of the Corporation, and at least a majority of the Board of Directors shall be members of the Corporation or shall be authorized representatives, officers or employees of a corporate member of the Corporation. Notwithstanding the foregoing, so long as PENLAND, INC., A North Carolina corporation, owns twenty-five percent (25%) of the total real property, but in any event, not longer than June 1, 2009, PENLAND, INC., shall have the right to designate and select a majority of the persons who shall serve as members of each Board of directors of the Corporation. PENLAND, INC., may designate and select the person or persons to serve as a member or members of each said Board of Directors in the manner provided in the By-Laws of the Corporation, and such person or persons so designated and selected need not be a resident of the Subdivision.

ARTICLE X

The Board of Directors shall elect a President, Vice-President, Secretary and Treasurer. The President shall be elected from among the membership of the Board of Directors, but no other officer need be a director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice-President shall not be held by the same person, nor shall the office of President and Secretary be held by the same person.

ARTICLE XI

The names and post office addresses of the initial Board of Directors, who, subject to the provisions of these Articles of Incorporation, the By-Laws and the laws of the State of North Carolina shall hold office until the first Annual Meeting of the Membership (or until their successors are elected and qualify) are as follows:

NAME	ADDRESS
Jim Hammonds	138 Willows Bay Drive, Rocky Point, NC 28457
Oreg Boswell	36 Green Hill Court, Rocky Point, NC 28457
Renee Gibson	104 Windward Drive, Rocky Point, NC 28457
Jamey Waltman	225 Broken Spur Court, Rocky Point, NC 28457
Michael Chu	212 Gobbler Court, Rocky Point, NC 28457
Douglas Smith	226 Willows Bay Drive, Rocky Point, NC 28457

ARTICLE XII

The original By-Laws of the Corporation shall be adopted by a majority vote of the initial Board of Directors, and thereafter such By-Laws may be altered or rescinded only in such manner as said By-Laws provide.

ARTICLE XIII

Every Director and every officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Corporation, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of the Corporation. The foregoing being in the best interests of the corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

ARTICLE XIV

In the event of the dissolution of the Corporation, no Director or Officer shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation, shall be disposed of exclusively for the purposes of the Corporation in such manner or to such organization of organizations organized and operated for substantially the same purposes as this Corporation or exclusively for charitable, education, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine.

ARTICLE XV

An amendment or amendments to these Articles of Incorporation shall require the assent of two-thirds (2/3) of the Board of Directors.

ARTICLE XVI

The name and address of the incorporator is as follows:

Lawrence S. Boehling
Attorney at Law
P.O. Box 1416
Burgaw, NC 28425

IN TESTIMONY WHEREOF, I being the incorporator, have hereunto set my hand and seal, this the 25 day of March, 2004.

 (SEAL)
LAWRENCE S. BOEHLING INCORPORATOR

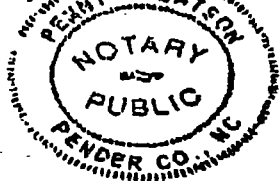
STATE OF NORTH CAROLINA
COUNTY OF PENDER

I, Penny Jo Batson, a Notary Public in and for the above said State and County, do hereby certify that LAWRENCE S. BOEHLING personally appeared before me this day and acknowledged the due execution of the foregoing and annexed instrument.

WITNESS my hand and notarial stamp or seal, this the 25th day of March, 2004.


NOTARY PUBLIC

My Commission Expires: 12/13/2008



I, Robert Q Edens residing at
222 Broken Spur Ct.

Spoke to Mr. Orengo a neighbor, I told him around June of July of 2008, when I arrived at my residence; I found in my screen door a flyer which stated that there would be a meeting to start a homeowners association. I attended that meeting with my wife and two children. There were approximately 30 people present at the meeting. The home association was voted in by approximately 18 people.

This meeting was held at Cape Fear elementary school in Rocky Point, North Carolina at approximately 7:00 P.M. There were votes for a president, Vice - president secretary, treasurer etc. I felt that more people in this complex should have been invited to attend this meeting.

Signature *Robert Q Edens*

Witnessed by Theodore Orengo on this 22nd day of _____ 2010

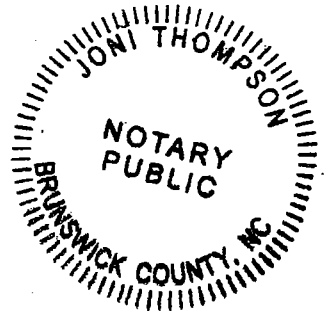
Theodore Orengo

Signed before me on this 7 day of May 2010

My commission expires August 12, 2014

Joni Thompson
Notary

my commission expires March 1, 2014



PENDER COUNTY SCHOOLS

925 Penderlea Highway
Burgaw, NC 28425
Phone: (910) 259-2187 Fax: (910) 259-0133

APPLICATION AND AGREEMENT FOR USE OF SCHOOL FACILITIES

COMPLETED BY APPLICANT - Application and fees are due 10 days prior to the event.

Name of school to be used: CAPE FEAR ELEMENTARY
Facilities to be used: media meeting room
Purpose of use: Willows Bay Home Owners Association Meeting
Number of persons using facility (approx): Adults: 50 Students: _____
Date(s) to be used: July 24 Time of use From: 7:00 (a.m.) ☒ (p.m.) To: 8:30 (a.m.) ☒ (p.m.)

In making this request, the undersigned agrees to accept the requirements and conditions as set forth in TERMS listed in this form.

Request made by: Doug Golightly Title: Developer
Name of Organization: Willows Bay Home Owners Association
Mailing Address: 3947 Market St. City: Wilmington Zip: NC
Applicant's Business Phone: _____ Residence: self Email: _____
Signature of Applicant: Doug Golightly Date: 7-7-08

FEES AND CHARGES (completed by Principal)

Facility Use: ☐ No ☒ Yes \$ 25.00
Custodial Service: ☐ No ☒ Yes 2 hrs. @ 22.00 per hr. \$ 44.00
Materials/Supplies: ☒ No ☐ Yes Specify: _____ \$ _____
Total: (Payable to the Pender County Board of Education) \$ 69.00
Deposit: ☒ No ☐ Yes Deposit Amount: _____
Current Certificate of Liability Insurance Required ☒ No ☐ Yes (attach copy)

COMPLETED BY PRINCIPAL

☐ The principal is unable to recommend this application because _____
☒ The principal agrees that the user group can use the facility
Requirements/Conditions: _____
Principal's Signature: Stephanie Willis Date: 7-14-08

Cafeteria Employee (Name): _____ Emergency Phone Numbers _____

CUSTODIAL ASSIGNMENT

Custodian (Name): Artie LaFon Emergency Phone Numbers _____

COMPLETED BY COMMUNITY SCHOOLS COORDINATOR

Community School Coordinator's Signature: [Signature] Date: 7/22/08
Special Conditions: _____

(Once this Application is signed by the Applicant and the Community Schools Coordinator or Superintendent's designee, this Application becomes the Agreement between the Applicant and the Pender County Board of Education and Applicant will be referred to as User).

Work order

Gail Mauro

26

3/2 Submission

From: Ned Robie [nrobie@gmail.com]
Sent: Friday, March 02, 2012 2:24 AM
To: gjjsmauro@embarqmail.com; Gail Mauro
Subject: Hearing

Hi Gail,

The text is below. Of course, feel free to change whatever you like.

As an example of how the individuals who took over the GHHOA board undermined the GHHOA/GHYC negotiations, ~~you might want to mention that~~ ^{during} the negotiations a vote was taken on the motion for the GHHOA to give the GHYC \$10,000 per year for maintenance of the marina, and that the motion passed with 54 votes, but President Martha Murphy two months later said the motion didn't pass.

Please replace the ??'s with the number of Gull Harbor residents who are in the GHYC. I don't know the exact number off the top of my head. I also have ?? for the number of individuals who hijacked the board. Just plug in whatever you think is close.

Thanks a lot for doing this. I wish I could be there.

-- Ned

Good afternoon, thank you for having this hearing and allowing me to address this committee. I'm Gail Mauro and I live in the Gull Harbor subdivision in Carteret County. We're a waterfront community that was created in 1972. The subdivision is subject to restrictive covenants and is governed by the Gull Harbor Homeowners' Association. We are fortunate to have a community marina. The marina is currently privately owned by the Gull Harbor Yacht Club, which was established by 17 Gull Harbor residents to save and preserve the marina for the Gull Harbor community. It is a completely separate entity from the GHHOA. The Gull Harbor covenants give Gull Harbor lot owners exclusive use of the marina and also financial responsibility for its maintenance. The covenants also allow the marina owner, the GHYC, to rent slips.

The provisions in the covenants that form the contract between the Gull Harbor lot owners and the marina owner are poorly constructed and ambiguous. They have been a source of problems from day one. The problems have recently culminated in a lawsuit that was brought by a small group of Gull Harbor residents against the GHYC. I'm here to tell you how this small group of residents hijacked the Gull Harbor Homeowners' Association board in order to undermine negotiations between the GHHOA and the GHYC. This breakdown of negotiations ultimately led to the lawsuit. The lawsuit has pitted neighbor against neighbor and torn apart what was once a tight-knit and vibrant boating community.

It started six years ago when a group of ^{Approx 5} ?? individuals who opposed the GHYC realized the strategic benefits of controlling the GHHOA. They were successful in being elected. Once elected they abused the bylaws to preserve their power and control. For example, they announced they had "life terms" and were not required to hold new elections. When they did hold elections, they manipulated the process and the results. For example, in one election they told the Gull Harbor residents that all proxies had to

3/2/2012

be given to current board members, even though here was no such requirement in the bylaws. In another election the board didn't like one of the newly elected board members because he was supportive of negotiating with the GHYC, so they removed him. This was in violation of the bylaws. They finally decided that it was best not to have elections at all. So, when a board member resigned, they simply chose their own replacement without holding elections.

While all of this was going on, fewer and fewer Gull Harbor residents attended the homeowners' association meetings. In fact, there has not been a quorum for the last four years. There are 78 lots in Gull Harbor, so about 40 lot owners are required for a quorum. The average attendance at the meetings has been about 20 lot owners. This means that the residents that hijacked the board and their hand-picked replacements have not been able to conduct business for four years, yet they continue to be on the board and refuse to step down. Recently, they have called for elections and encouraged people to run for the board, probably because they heard there's been discussion among some Gull Harbor residents to finally take legal action against them, but no one has stepped forward. People don't want to have anything to do with them.

So what are Gull Harbor residents supposed to do to stop this? People either can't afford to take legal action or don't have the stomachs to. The 17 GHYC members that are Gull Harbor residents represent 25% of the Gull Harbor lot owners, yet for the past six years they've had absolutely no voice. In the meantime, the community has been destroyed by a lawsuit that could very well have been prevented if the GHHOA board had been elected properly and not hijacked and abused by a few individuals who put themselves above everyone else.

I'm here to encourage you to pass legislation that will help prevent these kinds of abuses. Legislation is needed to ensure all members of a homeowners' association are fairly and equally represented and have a voice, and require that homeowner association bylaws contain safeguards that protect against abuses that would undermine fair and equal representation, such as homeowner association boards being hijacked by renegade individuals or groups of individuals with their own personal agendas. In cases where abuses do occur, legislation should provide homeowner association members with practical, effective and accessible avenues for redress.

*How do you control a board that is
almighty?*

Arbitration System.

public hearing 3/2
walk-in speaker

March 2, 2012

House Select Committee on Homeowners Associations
North Carolina General Assembly
Raleigh, North Carolina

Dear Chairperson and Committee Members:

Your willingness to directly hear our concerns as residents of Homeowners Associations is appreciated. I am Dave Watrous, a resident and previous Board of Director member of Fairfield Harbour in New Bern, North Carolina. Fairfield Harbour is a large very stable community with approximately 1400 single family houses, 1100 lots, 152 condominiums, 207 timeshares, and 24 townhouses with access to the Neuse River and Intercoastal Waterway. We are well known as a boating and golfing retirement community.

My comments will focus on one major issue relative to the Planned Community Act. We are a pre-1999 community, not governed under a majority of the sections of 47F of the Planned Community Act. Our recent experience is that the courts have ignored our controlling documents and issued rulings making it difficult if not impossible to govern our community. In a recent ruling our POA was denied 4 of the 17 powers granted all other communities under 47F while totally ignoring the powers granted in our Master Declarations of Restrictions (DOR). One clear example illustrates why we must all be concerned. The POA "leases" the firehouse portion of the Community Center to the Tri-County Fire Department for one dollar a year. Based on this decision, the POA no longer has the authority to grant leases over common elements. When asked if this is true we were told as long as no one challenges this arrangement the POA can continue this lease.

It is my understanding, that if a pre-1999 community becomes fully 47F compliant, the Board's authority will be clearer and thus help protect POAs from punitive court judgments. It is also my understanding that it takes a 67% community approval of all property owners to become compliant. This

is nearly impossible in a community such as Fairfield Harbour where over a third of the property owners live out of town or are corporations which almost never vote and consequently are counted as a NO vote. The methodology described in 47F-102(d) to become a full 47F compliant community sets a high barrier for acceptance, and most importantly opens many opportunities for law suits. If the NC Legislation believes that it is desirable for all HOA to operate under the full 47F rules, the process needs improved clarification and the voting requirements reduced to require approval from only those who actually vote.

I have personally witnessed the confusion on the part of POA boards, attorneys, and judges that has cost our community a great deal in amenities, property values, litigation costs, and more importantly personal relationships. I believe it is critical that the process of compliance be made easier and that simplifications and improvements to 47F will help Home Owners Association to function properly so as to ensure retirees continue to choose North Carolina for retirement.

Sincerely,

David Watrous
908 Sawgrass Ct
New Bern, NC 28560

Testimony before the
North Carolina House Select Committee on Homeowner Associations
March 2, 2012
St. James Plantation, St. James, NC

My name is Bill Bines. I live at 2682 Medina Ct., St. James, NC. I am a member of the Board of Directors of the St. James Property Owners Association in Brunswick County. I serve now as a board member of a large property owners association with a well defined volunteer governing structure and an ample annual budget.

In the recent past I served two terms as president of a medium sized POA, which was a marina, with 475 members and a large capital expense and somewhat limited budget. I have also served two terms as president of a very small property owners association with 39 properties occupied by fixed income retirees. As a POA board member I have experienced situations and problems faced by various size poa organizations.

— Opportunity to thank your committee for your interest and willingness to listen.
My testimony here today will supplement the testimony of Gordon Corlew, currently President of the St. James Plantation Property Owners Association which he delivered at your committee's last public hearing. His testimony addressed the issue of foreclosure as a tool.

— Our comments today will be directed toward property owner compliance with rules and regulations of the associations. We will also discuss procedures in place to ensure fair and unbiased enforcement of rules violations and due process for rules violators.

Let me take a moment to point out a few facts about St. James. The plantation has almost 4200 property owners. The POA is responsible for maintenance and repair of over 60 miles of private roadways with speed limits ranging from 20 to 30 mph. We own + maintain several parks and other amenities such as a beach club, amphitheater and others.

DURING 2011

337 traffic violations issued with fines from \$35 to \$100

204 rules violations (mostly trash can's at the street too early or too late, or improperly placed yard debris, etc). Notices were sent and the violations were corrected. There were 30 hearings which resulted in small fines.

86 Architectural Control violations which resulted 20 fines

Noteworthy: There were 0 lawsuits filed by the POA to force correction of violations or collect fines

There were 0 lawsuits by property owners against the poa for unfair treatment.

Infact: we have had no lawsuits of either type in the last ten years!

North Carolina already has a robust Planned Community Act which sets requirements for Homeowner Associations and protects property owners.

Education and understanding of the provisions of the existing Planned Community Act is the key to assuring that HOA Boards understand their responsibilities as boards and that property owners understand how their HOA should operate.

Many HOA's choose to contract with a management company to guide the operation of their HOA. This should be encouraged. Management companies can provide valuable assistance to HOA boards in areas of setting up policies and procedures which provide fair due process to property owners while, at the same time, protecting the assets of the HOA.

St. James POA spends considerable dollars for legal fees. As you can see from the above statistics, St. James asks for legal advice regarding policies and procedures during the formulation stage of policy development. We try to do it right the first time so that we don't have to spend legal fees to get ourselves out of trouble.

However, we also know that many smaller associations don't have the luxury of spending ~~legal~~ fees for any purpose. That is why we believe that education is so very important. Most volunteers who are elected to POA office are well-intended

and are receptive to people who desperately need minimal education regarding the fundamental aspects of their positions. Your House Select Committee may want to give consideration to establishing a simple, low cost methodology for training of POA volunteers. Perhaps it could be something as simple as a traveling road show which could travel the state and provide seminars (on evenings or weekends) to both HOA boards and HOA members as well. and assist in providing

"model" policies which HOA's can use as a model for their own policies. In summary, we believe that the existing Planned Community Act provides ample guidance to HOA boards and protection for HOA members. The missing ingredient is continuing education for all involved. - Theme here is to emphasize on front end - setting up policies. On behalf of the Board of Directors of the St. James Property Owners Association, we would like to thank you for your interest in this topic, and for the opportunity to comment on this issue.

- Model: would create minimal standards for due process -
- Proxy: 30% of prop owners do not reside year-round in the plantation - many use proxies - model performance standards

3 E's of good policy:

Engineering

Enforcement

Education

Emphasis should be on Education
not Enforcement

- Committee structure - term limits 2 3yr terms

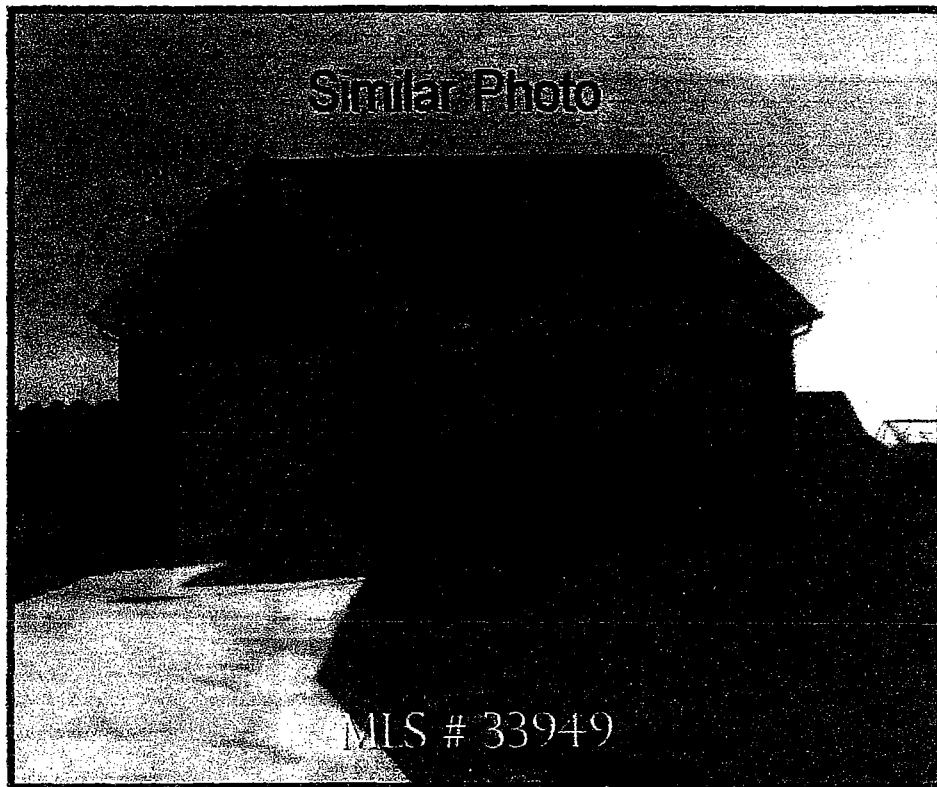
Elizabeth City's only Independent Active Adult Community 55+ ←

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MLS #: R38841C (Closed) List Price: \$225,900**305 Spoonbill Loop Elizabeth City, NC 27909****SELLING PRICE:** \$218,600**SOLD DATE:** 2/16/2007**TYPE FINANCING:** Conventional**SELLING OFFICE NAME:** Long and Foster/Eliz City (#7)**SELLING AGENT NAME:** Cindy Smith (Removed) (#11)**SELLER CONC AMOUNT:** 000**TYPE & STYLE:** 1.5 Stories, Traditional**TTL ROOMS:** 6**BEDROOMS:** 3**BATHS:** 3**HALF BATHS:** 0**TTL APX HEATED SQFT:** 1715**YEAR BUILT:** 2006**APX AGE:** New**APX SQFT:** 1701-1900**LOT #:** 98**UNIT #:****PHASE #:****COUNTY:** Pasquotank**SUBDIVISION:** Pelican Pointe**CITY LIMITS:** Yes**NEIGHBORHOOD/AREA:****ELEMENTARY SCHOOL:** JC Sawyer**MIDDLE SCHOOL:** River Road**HIGH SCHOOL:** Northeastern**AVAILABLE FOR RENT:****DEED BOOK:** 742**DEED PAGE:** 834**PORTION OF DEED:** No**ALL OF DEED:** No**PIN:** 0000**PLAT:****MAP:****OTHER:****LOT SIZE/SQFT:** 36X50**APX ACRES:****EST TAXES:** TBD**TAX YEAR:** 2006**TAX VALUE:** TBD**HOMEOWNERS ASSOCIATION:****SUBJECT TO HOA REGULATIONS:****HOMEOWNERS FEE YR/MO:** 145 MO**GOV'T ASSMT YR/MO:** 107 YR**PROPOSED SPECIAL ASSESSMENTS:****CONFIRMED SPECIAL ASSESSMENTS:****RENTAL:** No**RENTAL \$:****MODEL HOME:** No**ELECTRIC COMPANY:****WATER DESC/FEATURES:****FLOOD ZONE:****LOCATION DESCRIPTION:** Association Fees, Pool Association, Club House Association**EXTERIOR FEATURES:** Underground Utilities, Natural Gas Connected, Cable TV Available, No Fence**BATHS 1ST FLOOR:****BATHS 2ND FLOOR:****BATHS 3RD FLOOR:****HALF BATHS 1ST FLOOR:****HALF BATHS 2ND FLOOR:****HALF BATHS 3RD FLOOR:**

Lvl: Dimensions/Description:

Living Rm:

Great Rm: 1

Dining Rm:

Kitchen:

Kit/Dng Combo: 1

Utility/Lndry Rm: 1

Den:

Mstr Bedroom:

Bedroom 2:

Bedroom 3:

Bedroom 4:

Bedroom 5:

Lvl: Dimensions/Description:

1

1 BR/ STUDY

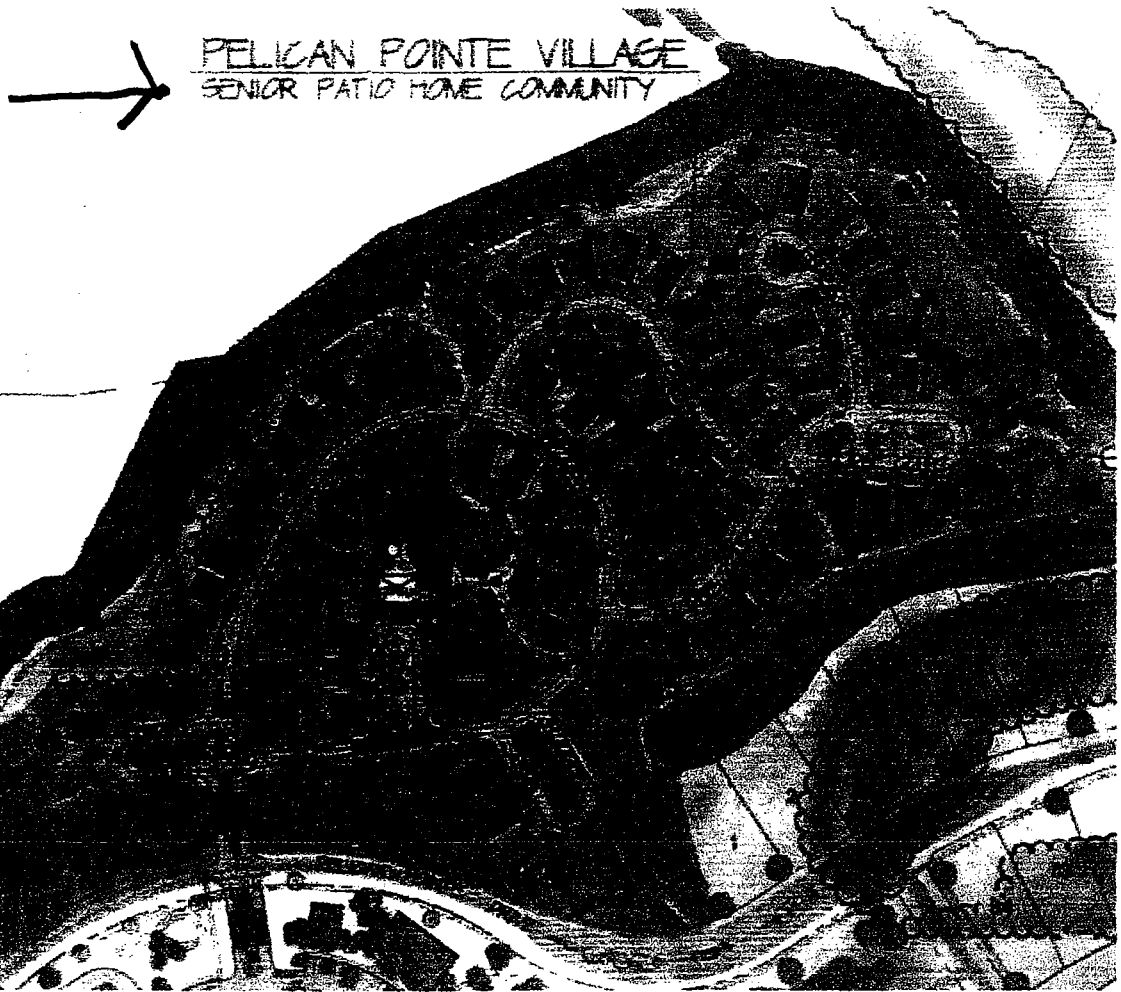
2

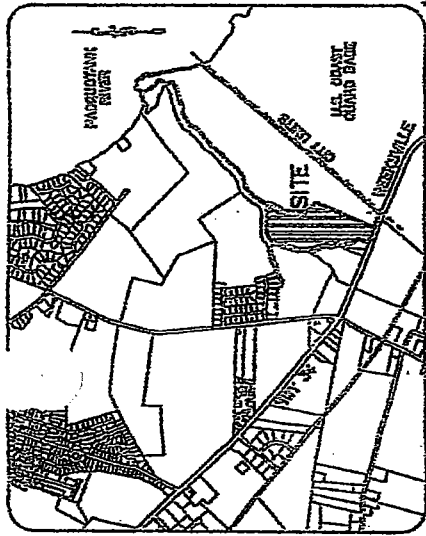
2 LOFT

FROG:**FROG:** No**MODULAR/MANUFACTURED:****ROOMS:** Great Room, Kitchen/Dining Room, Laundry, Screened Porch, Other**INTERIOR FEATURES:** Large Master Bedroom, Walk-in Closet(s), Ceiling Fan(s), Washer Hook-up, Dryer Hook-up, Fireplace, Gas Logs (Propane), Cathedral Ceiling(s), Smoke Alarm(s)**APPLIANCES:** Dishwasher, Range/Oven-Natural Gas, Microwave**CONSTRUCTION:** Brick Veneer, Vinyl Siding**ROOF:** Architectural**FOUNDATION:** Slab**HEATING SYSTEM:** Gas Forced Air, Natural Gas**AIR CONDITIONING:** Central Electric**WATER:** City Water**SEWER:** City Sewer**WATER HEATER:** Natural Gas**GARAGE/CARPORT:** Garage Single Attached**DRIVE:** Concrete**ATTIC:** Pull Down Stairs**FLOORS:** Carpet, Tile, Vinyl**OWNERSHIP RIGHTS:****DIRECTIONS:** RT. 17 TO HALSTEAD BLVD. FOLLOW AND TURN LEFT INTO PELICAN POINTE JUST BEFORE THE COAST GUARD BASE**REMARKS:** THE VILLAGE AT PELICAN POINTE IS AN ACTIVE ADULT COMMUNITY FOR OVER AGE 55 CLUBHOUSE AND POOL ARE UNDER CONSTRUCTION AND WILL BE COMPLETED SOON MODEL OPEN 1 TO 5 THUR-SUN**AGENT REMARKS:** CLOSING COST ASSISTANCE FOR LIMITED TIME WITH RECOMMENDED MORTGAGE CO AND ATTORNEY**OWNER'S NAME:** KAR-SAN DEVELOPMENT**OWNER ACC FINANCING:** Cash, Conventional, FHA**CO-BROKER SHARE:** 2.5%**SELLER AGENT:** Yes**BUYER AGENT:** Yes**LIMITED SERVICE:** No**EXCLUSIONS:** No

VARIABLE RATE: No**ENTRY ONLY:** No**REFER TO ML#:****SHOWING INSTRUCTIONS:** Lockbox Vacant, Show Anytime, Other**POSSESSION:** At Closing**DISPLAY ON INTERNET:** Yes**DISPLAY ADDRESS:** Yes**CONTINGENCY TYPE:****CONTINGENT SALE DETAILS:****ADDITIONAL CONTINGENCY DETAILS:****AUTOMATED ESTIMATES:****THIRD-PARTY COMMENTS:****PENDING/CONTRACT DATE:****DAYS ON MARKET:** 139**SELLER REPRESENTATION:****PRIMARY RESIDENCE:****CO-LIST AGENT:****DUE DILLIGENCE PERIOD:****OFFICE NAME:** Long & Foster Real Estate/Bridge Rd (#205)**LISTING AGENT:** Carol Efird (Inactive) (#2)**MAIN:** (757) 483-5606**FAX:** (757) 483-5607

Information Herein Deemed Reliable but Not Guaranteed



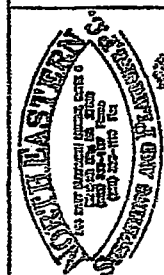


N/T
HICKORY VILLAGE MOBILE HOME PARK
D.B. 004, PG. 700
11/2/04

P-203
N/T
PHILLIP W. HARRINGTON
D.B. 700, PG. 148



SCALE:	N.T.S.
DATE:	6/5/02
DRAWN:	CHM
SURVEYED BY:	SLT
PROJECT NO:	2002-0005
CADD FILE:	0005
SHEET:	1 OF 1



SALES MAP OF
FELICIAN PONTE
SENIOR HOUSING COMMUNITY
PAGE DEVELOPMENT CO., L.L.C.
PACIFIC NORTHWEST COUNTY



REMARKS: SEE TOWNSHIP



Pelican Pointe Homeowner's Association

P.O. Box 702 • Elizabeth City, NC 27909 • 252-202-2441
www.pelicanpointenc.com • ppha@pagedevelopmentcompany.com

Dear Member(s),

Since the turnover meeting on December 7 in which Page Development gave control of the Pelican Pointe community to the homeowners, your newly elected Board of Directors has grappled with many issues, including:

1. Forming a full board with standing committees
2. Creating methods of communication with the community at large
3. Installing an accounting system
4. Developing an initial budget including a plan for maintenance reserves.

In addition, the community inherited a number of problems that were the legacy of the departing developer. The most important and difficult problem has been the 55+ age restriction in the Village. This Board regrets having to address this highly emotional issue so soon after the turnover meeting. However, after exerting due diligence to fully investigate the matter, your Board took action this month to remove the 55 + age restriction for home ownership and residency in the Village from the Home Owners Association Rules and Regulations. The developer added this age restriction only to the Rules and Regulations, an action which had no legal merit.

Investigation revealed that a restriction to limit the sale and occupation of residences in the Village to individuals who are 55 years of age and older did not exist in the Planned Use Development plan (PUD) filed by Page Development with the City of Elizabeth City. No 55+ age restriction has ever been recorded on any Village property deed and cannot be enforced by law. The Board confirmed these facts in a meeting with Richard Olson, City Manager, and in consultation with legal counsel.

The 55+ marketing strategy adopted by Page Development subsequent to its filing of the PUD was neither monitored nor enforced by the developer. Page Development sold lots and rented to individuals who did not meet the age restriction. Should this Board attempt to allow 55+ restrictions to continue, it has no legal ability to enforce that restriction and in fact risks exposing the community association to legal action by either a buyer or a seller who might wish to claim discriminatory practice.

We have spent countless hours discussing this issue with the City Manager, legal counsel, and each other to work out this situation to the satisfaction of the residents of the Village. However, after much deliberation, we believe we had no legal choice but to lift the 55+ restriction in that part of Pelican Pointe. While we understand, and deeply regret, that there are some in the community who will not be happy with the decision, your Board believes as a matter of conscience and law it has taken the proper course of action in response to the legal realities of the situation.

Please feel assured that we will do everything in our power to create and enforce covenants that will keep the Village in its present neat and quiet state for the sake of all residents. Let us all move forward now to make the Pelican Pointe community one in which we may all take pride.

Sincerely,

Jim Butler, President

Danny Sawyer, Vice President

Robert A. Thomas, Vice President/Treasure